A FURTHER ILLUSTRATION

OF THE

CASE OF THE SENECA INDIANS

IN THE STATE OF NEW YORK,

IN A

REVIEW OF A PAMPHLET

ENTITLED

"AN APPEAL TO THE CHRISTIAN COMMUNITY, &c.

BY NATHANIEL T. STRONG,

A Chief of the Seneca Tribe."

PRINTED BY DIRECTION OF THE JOINT COMMITTEES ON INDIAN AFFAIRS, OF THE FOUR YEARLY MEETINGS OF FRIENDS OF GENESEE, NEW YORK, PHILADELPHIA, AND BALTIMORE.

"Wherefore, O King, let my counsel be acceptable unto thee, and break off thy sins by righteousness, and thine iniquities by showing mercy to the poor, if it may be a lengthening of thy tranquillity." *Daniel* iv. 27.

PHILADELPHIA:
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.....
1841.

"At a meeting of the Committees of the four Yearly Meetings of Friends of Genesee, New York, Philadelphia, and Baltimore, on Indian concerns, held at Rose street meeting-house, in the city of New York, Fifth month 1, 1841, a work entitled 'A further illustration of the case of the Seneca Indians, in the State of New York, in a Review of a pamphlet entitled "An Appeal to the Christian Community," &c., by Nathaniel T. Strong, a Chief of the Seneca Tribe,' was produced and read; which was approved, and a Committee appointed to have it printed for general information.

"BENJ. FERRIS, Clerk."

A FURTHER ILLUSTRATION, &c. &c.

THE Joint Committees of the four Yearly Meetings of Friends, of Genesee, New York, Philadelphia, and Baltimore, who are charged with the concern of those meetings, for the welfare of the Indian natives, believed it to be their duty to publish a work, entitled "The case of the Seneca Indians in the State of New York, illustrated by facts."

We had clearly seen that the interests of these poor Indians, as well as the character of our country, were suffering, not, as we supposed, from any defect of moral feeling in the community, but because their case was almost unknown to our fellow-citizens; and of the few who understood it, some were interested in preventing the truth from being published. We believed if the facts at that time within our knowledge, and illustrative of their case, were generally known, the virtuous part of society, in this cause of justice and humanity, would lift up a voice so loud as to be heard in the legislative halls of our country, where there is a power to prevent further injuries, and to redress past wrongs.

The object of our book was what its title imports; to illustrate the case of the persecuted Seneca Indians, by laying *facts* before the community. To the parties, whether of the white men, or red men, engaged in the cruel work of coercing this suffering people into an exile, so terrible to them, we were strangers; and certainly owed them no ill will. Many of them probably knew little or nothing of the measures pursued in their names. Some of them, we understand, are British capitalists, who perhaps neither know nor care any thing about the Indians,—their sole concern being the *profits* on the capital invested. Others probably are men, who, honest themselves suppose others are honest, and have taken it for granted that no unfair means would be resorted to in the prosecution of their interests.

As it regards the Land Company we do not find fault with them, because they pursue with unceasing vigilance their own

interests; but because they pursue them by unfair means. Their conduct has been exposed, not because it was a pleasure to us to lay before the public the evidences of their turpitude, but because we could not truly state the case without making such exposure. Injustice cannot exist without agents;—an act cannot be stamped as criminal without involving individuals or companies in the charge of crime. It would have been more agreeable to us, if the case of the Seneca Indians could have been illustrated without reference to facts, or that facts could have been stated without reference to agents. This, however, was impossible, and truth spoken from necessity is no breach of charity.

In reply to our book, a pamphlet has lately made its appearance, entitled "An appeal to the Christian community, on the condition and prospects of the New York Indians; in answer to a book entitled 'The Case of the New York Indians,' and other publications of the Society of Friends. By Nathaniel T. Strong, a Chief of the Seneca tribe," pp. 65. New York, 1841.

The reputed author of this pamphlet is one of those Chiefs of the Seneca nation, who, violating their duty as its representatives, and perverting the authority conferred upon them at their inauguration, have turned traitors to their country, and used that authority, and all their individual influence, to drive their brethren into a "waste howling wilderness," contrary to their well known wishes, repeatedly and most earnestly declared in council, among themselves, and before the authorities of our country.

Had this pamphlet truly exhibited to "the Christian community" the "condition and prospects of the New York Indians," this notice of it would not have been necessary. Such an exhibit would have excited the commiseration of every mind not callous to the sufferings of an innocent and cruelly oppressed people. It would have called from that community a terrible sentence of condemnation upon the authors of these wrongs. In the judgment to be pronounced by "the Christian community," when truly informed, the Indians have nothing to fear.

But it was not the purpose of the writer of that pamphlet to exhibit to "the Christian community" the true "condition and prospects of the New York Indians." His object was not to *exhibit*, but to *veil* from the public eye that condition—to make the community believe that transactions originating in the grossest sel-

fishness were the fruits of "Christian" benevolence; a benevolence so impulsive as to justify BRIBERY and all manner of fraud to secure its object! His design in writing that work was to enlist the sympathy of religious professors in a cause so unholy, so cruel, so destitute of all regard for the rights, the interests, the feelings of a poor defenceless people, that millions who never heard the name of the Redeemer, would turn from the scene with disgust and shame.

That Nathaniel T. Strong, whose name is attached to this pamphlet, has permitted himself to become an instrument in the hands of selfish and cruel men, without seeing the miserable consequences of his agency, we would charitably hope. His conduct in regard to his nation, however enormous, is perhaps more the result of his weakness than his wickedness. The official documents, printed by order of the Senate, prove that he has kept unprofitable company; and we have it from high authority, that "evil communication corrupts good manners."

In regard to the Society of Friends, Nathaniel T. Strong has taken a position which distinguishes him from every other Indian of the American continent, either of the past or present time. He is the first and only red man that ever put his name to a book, to injure the well earned fame of William Penn, or the character of the Society of which he was a member.

But there is another circumstance which places our author in a very conspicuous point of view. We allude to his *literary* attainments. We mean, at present, to make no further use of this circumstance than as a caution to our readers, how they admit the truth of any assertions or insinuations, on the part of the Ogden Land Company, or their advocate, against the possibility of civilizing the Indians. This "Chief of the Seneca tribe" has acquired at least some of the "arts" of civilized life.

We have said the object of the author of this pamphlet was to veil from the public eye the true state of the case, and we trust that, in the course of a brief review of his work, this will be made manifest. It appears to be one continued laborious effort to cover up the truth—to give to facts a false coloring—to make the public believe that a course of operations, whose object was to wrest his land from the rightful owner, was the fruit of Christian charity! In fine, it is an attempt, *en masque*, to justify that which

Justice abhors—to support a scheme which every honorable man can fully understand only to condemn.

It is not our intention again to give a history of this highly discreditable transaction, or to go extensively into matters already of public record. The endeavor to thread this gloomy labyrinth, to detect the frauds and falsehoods lurking in its intricate windings, has already been sufficiently painful. We feel no disposition unnecessarily to descend into its dark mazes, or again to breathe its offensive atmosphere. We shall, therefore, go no further into that history than is necessary to elucidate this subject, and enable the reader to connect the facts referred to in their proper order.

One of the means used by the Land Company to veil from public view the true state of the case, is the use of ambiguous terms, or the false application of others, when they speak of what they call their *title* to the Indians' land. We deem it important to notice this subject, because *words* may be repeated in a wrong sense so frequently, and so long, as to acquire a *new* meaning, wholly foreign to the *true* one; and, in the present case, highly prejudicial to the cause of the poor Senecas. If by these means the public mind can be prejudiced with the idea that the Ogden Company are the rightful *owners of the soil*, they will have little trouble to make the community believe that the Indians are the *aggressors*, obstinately and unjustly keeping them out of their rights.

The truth is, that no individuals or companies whatever, have any title, either *in law* or *equity*, to the Seneca Reservations, except the Indians themselves. The Ogden Company have not only no "fee simple title" to them—they have no title to them of any kind whatever!

In a letter addressed to the President of the United States, dated April 4th, 1839, the Ogden Land Company have the presumption to style themselves the "*pre-emptive owners of the lands* occupied by the Seneca and Tuscarora tribes of Indians, in the western parts of the State of New York." And subsequently, they say, "In 1826 these *owners* extinguished the Seneca claim to parts of these lands; in the residue, *by title regularly derived from the crown of England*, through the states of New York and

Massachusetts, they still hold *a legal estate in fee simple*, subject only to the *possessory right* of the native Indians."

This representation of their "title," so diametrically opposed to the facts of the case, and at variance with the plain language of the compact between New York and Massachusetts, looks very much like a deliberate attempt to deceive. When the Company call a mere *pre-emptive right* "a legal estate in fee simple," they explain our meaning, where we charge them with making "a false application of terms," when speaking of their *title* to the Indian lands.

In the year 1497, under the reign of Henry VII. of England, John Cabot and his son Sebastian, in their own ships, and at their own expense, discovered the coast of North America. On this foundation the claim of England to this country primarily rests; under this claim she drove the Dutch from New York, in the reign of Charles II. To acquire it she expended no money, effected no landing, took no possession; but having quietly passed along the coast, and seen the land, it was left where it rightfully belonged, in the tenure of the natives. One hundred and twelve years afterwards, Henry Hudson, then in the employ of the Dutch "West India Company," after in vain attempting to discover a northwest passage to China and Japan, sailed down the coast of North America, and discovered New York Bay. He landed on Manhattan Island, and, by permission from the lords of the soil, built a cabin, and opened a trade with them. This was the first European settlement within the limits of New York State; the first act of possession by foreigners in her territory. We would ask, did that act give the Dutch "a fee simple title" to all the land in that State, extending from Manhattan point to the River St. Lawrence, and from the Hudson to the Niagara? The idea is preposterous! And yet, in reason, it is a better title than that under which the crown of England claimed it, and by virtue of which they expelled the Dutch.

The Indians, at the time of Hudson's landing, held the highest right, the most august title to their lands, of which the human mind can have any conception! They say, and it cannot be truly gainsaid, that "the Great Spirit made these lands, and gave them to his *red* children." Cornplanter, the celebrated Seneca Chief, in a speech to General Washington, then President of the

United States, about the year 1790, said, "The land we live on was received by our fathers from God, and they transmitted it to us for our children. You claim it as ceded to you by the King of England. We deny that it ever belonged to the King of England, and he had no right to cede it to you." To the justice of this conclusion, every unsophisticate understanding freely yields its assent. The title thus claimed, is of immemorial tenure. It is inherent, original, and indefeasible. It is an "allodial title," which Blackstone describes as "the highest known to the law." It is higher than "a fee simple title," because, as the learned judge remarks, "it is that which a man holds in his own right, without owing any rent or service for it whatever." It is a right "wholly independent, being held of no superior at all." *Commentaries*, vol. 2, pp. 60, 67.

"The right of discovery" can neither in law nor in equity touch this title—it can never impinge upon or affect it in the slightest manner or degree. The right of discovery can confer no title, adverse to the original ownership. It is a right that can go no further, at best, than to exclude all claims under subsequent discoveries; and even then, it is questionable whether it can rightfully exclude them, unless the original discoverer has taken and maintained a possession. Thus, in the case of New York, the expulsion of the Dutch by Charles II. under the plea of discovery by the Cabots, without any claim by *possession*, has been deemed unjust and arbitrary. The question of *right* in the case was settled, not by an appeal to reason, but to arms.

With no other title to the country than the discovery by the Cabots, James I. of England, in the year 1620, granted by patent to a company of adventurers, a tract of land called New England, extending in width north and south, from the 40th to the 48th degree of north latitude, and running from the Atlantic to the Pacific Ocean. The King, by this act, gave to forty individuals nearly all the land in the United States, north of Mason and Dixon's line, including also New Brunswick, all the Canadas, as far north as Lake Superior, and all our territories west of the Mississippi, to the mouth of the Columbia river! Thus the lord of a little isle, "a spot, not quickly found if negligently sought," can, by the dash of a pen, dispossess millions of their rights, and

confer them, according to the doctrines of the Ogden Land Company, " in fee simple," on forty of his subjects.

The title under this patent, preposterous as it is, that Company in their letter to the President of the United States, calls a " title regularly derived from the crown of England through the States of New York and Massachusetts," and by which " they still hold a legal estate in fee simple, subject only to the *possessory* right of the native Indians." But whatever they may call it, and after all that has been said or can be said on the subject, this is the only ground of title which this great Land Company now have to the land of the Seneca Indians. It is, at most, the right which Henry VII. of England had to it, by the discoveries of the Cabots! How are all the ideas of justice, of right, of common honesty, implanted in the human mind, or unfolded thereby the Author of our being, shocked by the doctrine, that the discovery of a populous country, can give any right to it prejudicial to the original owners and actual occupants of the territory!

Tradition says, that when William Penn was about to leave England, on his first voyage to America, he waited on the King, to take leave of him. In a conversation with him on that occasion, Penn mentioned his intention to *purchase* of the Indians their lands. The monarch expressed surprise at such determination, inasmuch as Penn had already bought them of the crown. To which Penn replied, that he did not consider *that* purchase as giving any right, impairing or superceding the Indian title—a title which the *right of discovery* could never weaken or destroy, seeing that the original and rightful owners were not parties to the contract. In illustration of these truly Christian and rational views of the subject, Penn asked the King to reverse his own position, and suppose that, instead of a discovery of America by the English, the Indians had discovered the British Islands, effected a landing, and claimed a right to them by *discovery!* This application of the King's own rule, demonstrated its absurdity; and, though it may not suit the purposes of " a grasping Land Company," will meet the approbation of every truly " Christian community."

It is highly honorable to the good sense and integrity of the statesmen, concerned in settling the controversy between New York and Massachusetts, in the year 1786, that they laid no

claim to a "fee simple title" to the Indians' land. It is greatly to the credit of the State of Massachusetts, as a virtuous and upright community, that, in conveying her claims to these lands, she assumed to herself no such title. The great men who then represented both these States, understood and recognized the supreme and exclusive *rights* which the aborigines possessed in all their lands; rights of which they could not be divested without their own consent.

In the able Report of the Committee appointed by the Governor and Council of Massachusetts, (dated Council Chamber, Nov. 21, 1840,) to investigate the subjects of complaint on the part of the Senecas, they say:

"The sale and conveyance, by Massachusetts, of its said right of pre-emption, or exclusive right to purchase the land of the Indians, *gave no title or interest in the land itself.* Such title or interest could be acquired only by a sale and conveyance thereof by the Indians, and the 10th Article of the agreement of 16th December, 1786, was intended to guard them effectually against fraud and imposition." See Report, p. 7.

Here we have a statement from high authority, confirming the sentiment as before expressed, that the "Ogden Company have not only no *fee simple title* to the Indian lands, they have no *title* to them of any kind whatever." These views of the subject appear perfectly plain, from the language used by the States of New York and Massachusetts, when they adjusted and settled their respective claims to the western part of the State of New York. The words of that agreement, before quoted, are as follows:— "The Commonwealth of Massachusetts may grant *the right of pre-emption* of the whole, or of any part of the said lands and territories, to any person or persons, who, by virtue of said grant, shall have good right to extinguish by purchase the claims of the native Indians. Provided, however, that no purchase from the native Indians, by any such grantee or grantees, shall be valid, unless the same shall be made in the presence of, and approved by a superintendent to be appointed for such purpose by the Commonwealth of Massachusetts, and having no interest in such purchase; and unless such purchase shall be confirmed by the Commonwealth of Massachusetts."

Thus it appears that neither New York nor Massachusetts

claimed any *ownership* in " the lands occupied by the Seneca and Tuscarora tribes of Indians." They claimed no " legal estate *in fee simple*, regularly derived from the Crown of England." They knew they had no such title, and consequently " the Ogden Land Company" have derived no such title to these lands through them. It was left to that company to make the discovery, that a mere *privilege to buy*, gives *a fee simple title* to an estate, and leaves the real original owner, and actual occupant of his land, no title at all ; and nothing to hope for, but to be driven from his home and his fireside, when some *fee simple* claimant, by trickery and misrepresentation, by fraud and falsehood, could effect his cruel and dishonorable purpose.

The Articles before quoted say, " The Commonwealth of Massachusetts may grant the right of pre-emption." The word " pre-emption" is liable, from the frequent misapplication of it, by men interested in perverting it, to be misunderstood. The Lexicographers tell us that *pre-emption* is a word compounded of *pre*, meaning *before*, and *emption*, from *emptum*, the passive participle of *emere*, to *buy* or *purchase*, and simply means a right " or claim to buy before others." Now it is evident, from the language quoted, that all New York granted, and all Massachusetts claimed, was " *the right of pre-emption ;*" in their own words, " a right to extinguish, *by purchase*, the claims of the New York Indians."

From which it appears, that all the " ownership," all the " legal estate in fee simple," claimed by the Ogden Land Company, as " regularly derived from the Crown of England, through the States of New York and Massachusetts," is nothing more than a right " to buy before others" the claims of the native Indians :— And even this right is hedged about with guards and trammelled with restrictions. How does this inflated title, " derived from the Crown of England," dwindle at the touch of truth !

But notwithstanding this boast of being " pre-emptive *owners*" of those Indian lands ; notwithstanding they tell the President of the United States, that " by title regularly derived from the Crown of England, through the States of New York and Massachusetts, they still hold a legal estate in fee simple in these lands ; subject only to the *possessory right* of the native Indians,"—we say, notwithstanding all this, it seems they doubt their own assertions !

for when they come to draw a deed, for conveying to themselves this "possessory right," they take especial care to draw it exactly as if the Indians had the "*fee simple title*" in *them!* they make use of language fixed by custom for the purpose of conveying such title, and necessary in law to express such intention. Thus when these "fee simple owners" come to be tested, in a case where sincerity is no virtue, the truth comes to light, and a mere "possessory right" assumes the dignity of the highest feudatory title! Not satisfied with *a fee simple title*, "regularly derived from the Crown of England," they must have another fee simple title, derived from "the Seneca and Tuscarora Indians," by bribery, corruption and fraud.

To those who desire further light on this part of our subject, as well as on other interesting points in the present controversy, we would recommend a perusal of the lucid report to the Governor and Council of Massachusetts, to which we have already referred. This able document, the fruit of close research and deep investigation, will go down to future time, a testimony to the indefatigable industry, sound judgment, and unbending integrity of that Committee.

In the year 1837 a Commissioner was appointed by the Government of the United States to negociate a treaty with the New York Indians, *ostensibly* for the purchase of certain Green Bay lands, but, as we have stated in our "Case of the Seneca Indians," p. 8, with "the real object of obtaining the means, and money, and influence of the government, to assist the said land speculators, in their efforts to obtain the more valuable lands of the Indians in the State of New York." Our opponent endeavors to avoid this conclusion, not by showing that it was incorrect, but by giving an opinion that the speculators "had no immediate action in bringing about the Council, nor in the selection of the Commissioner appointed to hold it." To this it may be said, that "immediate action" was not charged upon them. It is *mediate action—veiled action—action that shuns the light*, which designing men mostly use to effect offensive purposes. Our statement on this subject, was founded on the assertion of Senator Sevier, who, in his address to the Senate, says, "a purchase of this Green Bay land was the *ostensible* object of this mission:—the *real object*, as I shall show you in this discussion, was to obtain *our influence*,

and our means and money, to assist a dozen or so of land speculators to purchase of the New York Indians their New York lands." Here we have high authority for our statement, which time has corroborated, by showing the results of this negociation. If the "Ogden Land Company had no immediate action in the selection of the Commissioner," his whole conduct in the business, as most forcibly illustrated by the Senator, shows that he was admirably fitted to carry out the dark designs of the Company. See Sevier's speech, "Case," p. 65, et seq. The truth of our position, we are confident, will be the more evident to our readers, the more they become acquainted with the history of that negociation.

In consequence of this appointment, a treaty was concluded with some of the Seneca Chiefs, dated January 15, 1838. It was of this treaty that we said in our book, page 9, "Great exertions were made by the Land Company to secure such a ratification of the treaty as would effect their object. Large bribes were offered to such of the Chiefs as could be deceived by misrepresentations, or gained by the love of money; and where such a reluctance to leave their homes was manifested, as no pecuniary rewards could overcome, they were threatened with a forcible removal, or bribed by an offer of leases for life, of the lands on which they dwelt, free of rent: and, in some instances, by fee simple titles." Nathaniel T. Strong, speaking of this treaty, says, "the treaty and a draft of a conveyance for the Seneca lands, were both read, article by article, to the Council, and faithfully interpreted in the presence of several persons acquainted with the Indian language," and that "both were regularly signed *in general council* by a majority of the Seneca Chiefs, according to the usage of the Six Nations."

In this passage our author has omitted one important fact—that of those who then signed that treaty, *ten of them, at least*, were *bribed* by the promise, under articles of agreement with the agent of the Ogden Land Company, to the amount of more than twenty-four thousand dollars. But he has mentioned another that is *very important*, and which we would wish to be retained in the memory of all his and our readers; that "the usage of the Six Nations" requires that treaties, to be "regularly signed," must be executed "in general council."

But whether *that* treaty was "regularly signed in general council" or not, is wholly immaterial to the question before us. That treaty which he says was so "faithfully interpreted," is not the one now under discussion. It was afterwards rejected by the Senate because it was "so defective" that they could not agree to its ratification, and consequently it never was binding on either party. If it had been "read, article by article, to the council"—nay more, if it had been duly and fairly executed by a constitutional "majority of the Seneca Chiefs, according to the usage of the Six Nations;"—if these Chiefs had been unbribed, unbought, undisputed Chiefs, it would have availed nothing, because the action of the Senate upon it afterwards, rendered it, and every clause of it, null and void. A contract signed by one party, and its conditions, or any of them, afterwards changed by another party, is not binding on either:—it is no longer the same contract.

It was of this same treaty that, in our book, p. 9, we said, "A treaty, together with a deed of conveyance of their lands to the Ogden Land Company, was offered to the Chiefs, and on the 15th of the First month, 1838, signed by such of them as had, by *bribery or otherwise*, been prepared for its execution." The ten bribery contracts inserted in "the case," page 189, et seq., and that of Daniel Two Guns, a Buffalo Chief, p. 230, amounting to more than twenty-four thousand dollars, were all made before the signing of that treaty, and are part of the price of its execution. Such a foul instrument ought to have no force while there was a dissenting voice in the whole nation.

But not only was that treaty fraudulent, the deed of conveyance was corrupt also! The makers of the deed put into it a consideration or price, much lower than even the *bribed Chiefs* had expressed themselves willing to receive. Some of them who understood accounts, discovered this artifice, and complained of it, but bribery was again resorted to, in order to silence them! Daniel Two Guns, one of the Seneca Chiefs, in an affidavit taken before H. A. Salisbury, Commissioner of Deeds for Erie County, says, that "while the emigrating Chiefs [that is the bribed chiefs and others] were *in council with the Ogden Company* as to *the price of their lands*, the Chiefs asking two dollars and fifty cents per acre, the Ogden Company offering one dollar and eighty cents per acre, this deponent was taken by Potter [the agent of that

company] into another room, and was told by said Potter, that *if he would sign the treaty*, and *say nothing more about the price of the land*, he would give him $200 in hand, and $300 in three months after the ratification of the treaty, in addition to the $4000 before mentioned; to which this deponent agreed, and did sign the treaty and deed, and was paid the $200 by Potter."

This fact suggests other circumstances of a very suspicious character. It appears by the memorial of the Seneca Chiefs to the Governor and Council of Massachusetts, in 1840, that their reservations contain 119,000 acres. A letter from Ransom H. Gillet, the commissioner who negociated the treaty, to T. H. Crawford in the Indian Department at Washington, dated Nov., 1838, states their contents to be 116,958 acres. By the "contract" or deed of conveyance, prepared by the Ogden Company, the amount is only 114,869 acres; and in the deed we find the words, "be the same more or less," carefully inserted. This phrase, as lawyers know, covers all surplusage.

By the foregoing statements it appears, that the quantity of land in these reservations is, by the Indian account, 4131 acres, and by Commissioner Gillett's account, 2042 acres more than is mentioned in the deed prepared by the Ogden Company. It would appear, from these accounts, that the land in the neighborhood of Lake Erie and the Niagara River have the property of *contractability!* If the Indian reservations in that vicinity should continue to shrink at this rate, the time will not be long before, in the pathetic language of one of their Chiefs, they will not have "room to spread a blanket on," and they will have no inducements to remain, for the land, with all the bones of their fathers, will vanish for ever. If the Indian estimate of the contents of their lands be correct, at the price demanded by the emigrating Chiefs, that is, two dollars and fifty cents per acre, the consideration mentioned in the said deed is 95,500 dollars less than those chiefs intended to take for them. But when we consider the great fertility of these reservations, their proximity to the city of Buffalo, and other thriving towns, and to rich and highly improved agricultural districts, the wrong practiced upon the Indians in this case is enormous. It is believed that these lands, when divided, would sell for two, or perhaps three millions of dollars!

Having shown that the treaty which Nathaniel T. Strong sets

out in such fair colors, was, in fact, a foul instrument, and that, fair or foul, is wholly immaterial to the validity of the treaty now in question, we shall proceed to give the reader the proofs of this statement.

It is very important to a right understanding of the subject, that the reader should constantly bear in mind, that there were *two treaties* said to be concluded with the Seneca Indians. The one was that of which our opponent speaks in such flattering terms, and which was rejected by the Senate; the other is that known by the name of "the amended treaty." With the former we have nothing to do, except to expose its character. It has been dead and buried now more than three years. Nor do we believe it would have been referred to by the author of the "Appeal," but for the purpose of confusing the subject, or deceiving his readers. Nathaniel T. Strong knows very well that this treaty was set aside. Our statements from official sources, and the whole course of action on the part of the commissioner Gillett, of the President of the United States, and the Senate, for the last three years in this concern, prove the fact.

Of that treaty, Senator Sevier, in his speech to the Senate, said, "It was read in the Senate, was properly referred, and then your Committee went to work upon it. They found it so essentially defective, that it was out of their power to recommend its ratification. The objections to it were communicated, among others, to the Senators from New York. Some alterations in it were suggested by the War Department, and all agreed, without a dissenting voice in any quarter, so far as I recollect, that it could not be ratified in the form in which it was executed. We amended it *so thoroughly* as to make *nearly a new* treaty of it, and in these amendments the Senate concurred, and I believe with unanimity."

Thus we have evidence of the fact that the Senate rejected the treaty of the 15th January, 1838; and, by changing its conditions "thoroughly," made "nearly a new treaty of it."

Nathaniel T. Strong, in page 9 of his "Appeal," has ventured to put in print a statement, contradicting the plain and positive language of the Senator. He says, "it is well known to the authors of the "Case," that the provisions of the original treaty, in reference to *the Seneca tribe*, were left *substantially unchanged*.

The object was to defeat the *whole* treaty." The Senator says, "We amended it *so thoroughly* as to make *nearly a new treaty* of it." By the statement of our opponent it appears, that the Senate made "nearly a new treaty of it," *without changing its substance!* On this point, the committee appointed by the Governor and Council of Massachusetts, in their report, say, "*the original treaty secured to the Senecas other and valuable considerations for the sale of their lands, many of which said considerations were afterwards annulled, or commuted for others by the Senate of the United States.*" They particularize six instances in which valuable provisions for the Indians were taken out of it.

But what was *the amount of damage* to the Indians by the change, is of litttle consequence in the discussion of this point. Whether it was one thousand or one hundred thousand dollars, is wholly immaterial. *Any change in a contract*, signed by one party, done in his absence, and without his knowledge and consent, destroys its obligation, whether, at the first, it was fairly obtained or not. The Senate knew this perfectly well, and therefore adopted the resolution, dated June 11, 1838, and sent the treaty back to the Indians, for their consideration under its new form. That resolution is in the following words, to wit:

"Provided always, and be it further resolved, (two-thirds of the Senate present concurring) that the treaty shall have no force or effect whatever, as it relates to any of the tribes, nations, or bands of New York Indians, nor shall it be understood that the Senate have assented to any of the contracts connected with it, until the same, with the amendments herein proposed, is submitted, and fully and fairly explained by a commissioner of the United States, to each of said tribes or bands, separately assembled *in council*, and they have given their free and voluntary assent thereto. And if one or more of said tribes or bands, *when consulted as aforesaid*, shall *freely assent* to said treaty as amended, *and to their contract connected therewith*, it shall be binding and obligatory upon those so assenting, &c."

By this resolution, the Senate of the United States, a branch of the treaty-making power, having prepared the form of a treaty, prescribe a certain course to be pursued by a commissioner of the government, in procuring its execution by the other party. They

say, in clear and peremptory language, that this treaty shall have no force or effect whatever, nor shall it be understood, that the Senate have assented to *any of the contracts connected with it*, until certain conditions be complied with : and these conditions are so plainly laid down that the ingenuity of that commissioner, and of all the parties interested in misconstruing them, have utterly failed to substantiate the least doubt as to their meaning. Every art has been tried to torture this document,—it has been racked and stretched and twisted into every shape out of its original and natural one, to make it speak a language that would sanction the dark schemes of those whose object was to remove the Indians. But their labor has been in vain. The committee of the Senate which prepared that resolution, was in possession of *facts* in relation to some of the foul doings in the former negociation ; and the writer of the resolution, being forearmed, was determined, if possible, to prevent future frauds. With this view he has guarded the language of it with great care, and constructed the whole so as to baffle every attempt of sophistry to pervert its meaning. We will spend a few moments in examining this document.

No one has yet ventured to deny that *the treaty* was to be "explained to each of the said tribes or bands, separately assembled in council ;" and that part of the instructions was complied with. But can any one doubt that the "free and voluntary assent thereto" was a necessary condition to make it binding and obligatory upon those so assenting ; and was not that assent to be given *in council ?* The resolution says, "and if one or more of the said tribes or bands, *when consulted as aforesad*, (that is, when "separately assembled in council,") shall freely assent to the said treaty, and to their contract connected therewith, it shall be binding, &c."

Whether we decide this question upon the *reasons* of the case, by the *circumstances* existing at the time, or upon a fair construction of *the language used*, we have demonstrative evidence that it was the intention of the Senate that the "tribes or bands" were to be assembled *in council*—that the treaty was to be explained to them *in council*—that they were to be *consulted in council*, and, when thus "consulted" they were to give a free and voluntary assent to it *in council* assembled.

The *reasons* for this course are obvious. Senator Sevier says, speaking of the rejected treaty, "while this treaty was before the committee, we heard many complaints from the Indians and others against the treaty. Fraud, unfairness, and bribery, of which, at that time, we had no evidence, were charged; and it was stated that a majority of the Chiefs neither approved of, nor had signed the treaty, although, from the preamble, it purported to have been executed in council, and properly assented to. To guard these charges, the Senate adopted the resolution of 11th of June, 1838," the same now under review.

It was *reasonable* that these solemn transactions should take place *in council*, where the concentrated intelligence of the nation might be exercised. It was an occasion involving their dearest interests and happiness, as they stand connected with the present state of existence. They are an unlettered people, and, on that account, under great disadvantages where transactions and conclusions are stated in writing. Being unable to read, they have no power to detect frauds in written instruments, and have often been grievously wronged by signing papers whose import was represented falsely.

The *circumstances* of their case, at that time, were peculiarly perilous. The agents of the Ogden Company were shrewd men—some of them well versed in all the subtleties of the law, and ardently impelled to the prosecution of their schemes by the vast amount at stake. They had under them numerous sub-agents, attorneys, counsellors, hired runners, and, in fine, a well disciplined army of servants, fitted to their various stations; besides, ample pecuniary means, to give elasticity and motion to the whole; while the poor Indians, on the other hand, had little proper aid, and were constantly surrounded *by those who had been bribed to betray them.* Those who desire to understand this subject—and the curious and wonderful machinery that was put in operation to effect the execution of the amended treaty, should attentively read the official documents appended to our "Case of the Seneca Indians illustrated."

The *language* of the resolution also clearly confirms the views we have already expressed. What is the plain meaning of these words, "And if one or more of the said *tribes* or *bands*, when consulted as aforesaid, shall freely assent, &c." The words are not "if one or more *individuals* of said tribes or bands shall freely

assent:"—and the reason is evident. The preceding sentence of the resolution had declared that the treaty should have no force or effect until fully and fairly explained "to each of said *tribes* or *bands* separately assembled *in council*." It was to be explained to the "tribes or bands" in their *collective* capacity. And now it says, still speaking of them *collectively*, "if one or more of the said *tribes* or *bands*, when *consulted as aforesaid*, shall freely assent, &c," that is, consulted *collectively in council*, for no other place or manner of consultation is mentioned, or in any way indicated.

Now what are we to think of our learned Commissioner Gillett, who, by his conduct, interprets this resolution to mean, if one or more of the Chiefs belonging to these "tribes or bands," when "consulted" in a tavern at Buffalo, in a wigwam on the banks of the Cattaraugus—or in the public highway, shall, by bribery, threats of forcible removal, deception, and intimidation, be induced to sign an assent to the amended treaty, it ought to be binding and obligatory! Such interpretation is surely without example in all the chronicles of sophistry.

One of the conditions of the resolution is, that "the said tribes or bands, when consulted as aforesaid, shall *freely* assent." But is the assent obtained by a $6000 bribe *a free assent*?—is the assent reluctantly given under threats of forcible removal, a "free and voluntary assent?" No upright honorable mind can for a moment entertain an affirmative opinion on these questions.

But it was not only in one or two instances that the Commissioner disregarded his instructions, as expressed in the resolution of the Senate; he either violated or disrespected nearly all of them. The "contracts connected with the treaty," (that is the deeds of conveyance to the Ogden Land Company, said to have been executed by the Indians) were to have been *explained in council*, at the time the amended treaty was under consideration. This is evident from the plain language of the resolution. "The treaty shall have no force or effect whatever, as it relates to any of said tribes, nations, or bands of New York Indians, nor shall it be understood that the Senate have assented to any of the *contracts connected with it, until the same*, with the amendments herein proposed, is submitted, and fully and fairly explained, by a commissioner of the United States, to each of said tribes or bands

separately assembled in council, and they have given their *free and voluntary* assent thereto. And, if one or more of said tribes or bands, *when consulted as aforesaid*, shall freely assent to said treaty as amended, *and to their contracts connected therewith*, it shall be binding and obligatory, &c." But that very important part of this resolution, relating to "the contracts," and consequently to the alienation of their lands for ever, was wholly disregarded. The deed was neither explained nor assented to on that occasion.

Thus *the treaty* was to have been assented to in council by the tribes or bands in a *collective capacity*, as has been demonstrated; *and the contract likewise*, as now appears. It is admitted on all hands, that the assent, to be binding, must be the assent of a *majority*. Now, only sixteen chiefs out of eighty-one, which are admitted by both parties legally to hold that station, could be induced to sign the treaty *in council*, although, as since appears, more than one-half of them had been bribed to the amount of more than twenty thousand dollars. And, at the same time, and in the same council, sixty-four chiefs and warriors, dissatisfied and disgusted with the proceedings, came forward and desired to enter in writing a dissent or protest against the treaty, which the *magnanimous* Commissioner refused to witness, under the pretence that "he was not authorized to authenticate any document other than such as he had been *specially* directed to submit for their consideration." See Senate's documents, p. 62. The Commissioner, though sent to see that truth and fairness should be extended to the poor Indians, was too scrupulous to do an act essential to their performance! But General H. Dearborn, the commissioner on the part of Massachusetts, did attest the dissent, and it was forwarded to the Governor of that State and to the President of the United States. It will be found in the "Case of the Seneca Indians illustrated," p. 133.

We have seen that the *contracts or deeds of conveyance* connected with the amended treaty, were to have been explained *in council* by the commissioner, at the same time the other explanations were ordered; and that this important service was wholly disregarded. That the reader may more clearly understand this part of the concern, we will add a few remarks.

When the original treaty was returned to the Senate, in the

winter of 1837, 1838, there were connected with it two deeds of conveyance, with long introductory preambles, one from the Senecas, and one from the Tuscarora tribe. The Senate, in speaking of them, call them "contracts." The Senate intended, as expressed in their resolution, that these *contracts* should have no force or effect whatever, to alienate those lands, unless assented to in council, and unless the treaty should be accepted by the Indians; whereby they would have some place to set a foot upon, when their lands were gone from them. The Senate, therefore, always connects the treaty with the contracts, as parts of the general arrangement for the removal of the Indians. The report of the committee to the Governor and Council of Massachusetts, before alluded to, in reviewing this part of the subject, makes the following remarks:—

"The fact that the United States did not ratify the treaty of the 15th January, 1838, but materially altered it, and the views of the Senate, as expressed in the recited resolution, show, that the Senate held any assent given by the Senecas to that *treaty*, to be *wholly void*, and the *deed of conveyance* (or contract) to be *void also*, unless that deed, and the treaty *as amended*, should be afterwards *freely assented to by the Senecas*. The same resolution shows, that the assent was not to be asked until after a full and fair explanation of the amendments, &c., to the several tribes assembled *in council*. And the expressions used in the resolution in regard to the St. Regis Indians, as well as the other tribes, show that the Senate intended the assent should be given *in council*, and not out of council." See Report, pp. 16, 17.

We believe no disinterested person will be disposed to dissent from the sentiments so clearly expressed in the foregoing quotation. Yet we have evidence that the Commissioner threatened the Indians with the execution of the contracts, although the treaty should not be ratified. General Dearborn, in his letter to the Governor of Massachusetts, dated Lewistown, October, 1838, says, "Among the numerous, and *very cogent reasons*, which were *urged by the Commissioner* for inducing the Indians to assent to the amended treaty, during the progress of the long protracted deliberations; he observed, that he had been directed by the officer at the head of the Bureau of the Indian Department, to state, as his opinion, that the "contract" of the Indians for the sale of

their right of possession to the Ogden Company *was complete*, and might be carried into effect *whether the treaty with the United States was ratified or not*." This alleged *direction* of the officer in the Indian Department we have never seen. Its existence is much to be doubted for many reasons, and especially, because it can hardly be believed that any one, versed in contracts for the sale of lands, could suppose a contract *complete*, and might be enforced, when a great and essential part of the consideration was not secured; and particularly, when, as in this case, it must utterly fail by the failure of the treaty.

The truth is, as expressed in the said report to the Governor and Council of Massachusetts, "that the deed and first treaty constituted *one contract*, and that the first treaty being nugatory, *the deed thereby became void*, and must remain so until both the deed and amended treaty shall be confirmed and assented to by the Seneca nation, in a fair and legal manner;" that "they are connected together, and are to be considered as *one contract*—both equally needing ratification, on the part of the Seneca nation—that all the considerations coming to the Senecas are dependent on the treaty; that the 10th article of the amended treaty expressly treats the deed *as part of that treaty*, and as being annexed thereto; that the said 10th article would not be intelligible without the deed, and that the $202,000 purchase money is not to be paid to the Seneca nation except as provided in that article: that the *amended treaty*, not having received the assent of a majority of their chiefs and headmen, *in council*, nor the constitutional assent of the Senate, *is void;* and that *the deed*, as part of it, *is void also*." See that report, pp. 23, 24.

During the transactions of the Commissioner, these persecuted Indians had not only to contend with this mighty Land Company, and their army of agents, subagents, bribed chiefs, and others; they had also to stem the powerful torrent of *government influence* against them. It is well known that for some ten or twelve years past, the avowed policy of the federal government has been to remove the aborigines beyond the Mississippi. The Ogden Company, in all their operations, took advantage of this policy; and the government seconded their views, by an appropriation of 400,000 dollars of the public treasure, to carry them out. When the Indians, on the other hand, appealed to the authorities at

Washington on the affairs of their nation, and particularly in relation to any scheme to drive them from their lands, they felt the full weight of this influence against them. They were coolly told that it was "the settled policy of the government to remove them." Every executive officer in the Indian Department partook more or less of the influence which arises from this source; and, however humane and honorable in their intentions, it produced results which, we may very safely say, never would have taken place if the bias had been as strong in the opposite direction.

It is saying much in favor of the cause we espouse, and in corroboration of the facts we have published, when we state *the fact*, that the late President of the United States, although warmly in favor of removing the Indians, returned the amended treaty *twice* to the Senate, because he could not ratify it consistently with the resolutions of that body. In his last message on that occasion, dated January 13, 1840, he pronounces a sentence of condemnation on the authors of the iniquitous transactions connected with its execution, which, coming before the public through the highest officer under the constitution, and emanating from the seat of government, ought to make them for ever to shrink from any "appeal to the Christian community" on this occasion.

In that message, referring to the *clandestine conduct* of the Commissioner, in his efforts to obtain an execution of the treaty, the President says, "The provision of the resolution of the Senate of the 11th of June, 1838, *requiring the assent of each of the said tribes of Indians to the amended treaty* to be given *in council*,—has not been complied with as it respects the *Seneca tribe*."

In relation to *the fact* which was stated in the "Case of the Seneca Indians illustrated," p. 61, that "not one-seventeenth part of the Seneca Indians are favourable to the treaty," the President says, that "statements were made to the Secretary of War, at Cattaraugus, to show that *a vast majority* of the New York Indians were *adverse* to the treaty," and that "no advance towards obtaining the *assent* of the *Seneca* tribe to the amended treaty *in council* was made; nor can the assent of a majority of them *in* council, be now obtained."

On the subject of *bribery*, and referring to the shameful conduct of the agents of the Ogden Company in attempting to corrupt the

chiefs, the President affirms, that "*improper means* have been employed to obtain the assent of the Seneca chiefs, there is every reason to believe; and I have not been able to satisfy myself that I can, consistently with the resolution of the Senate of the 2d of March, 1839, cause the treaty to be carried into effect in respect to *the Seneca tribe*."

These extracts from the President's message, coinciding, as they do, with our own views, go to prove incontestibly that the treaty is *neither just nor valid*, and ought to be annulled.

But there are other reasons for setting aside that treaty, which we think are alone sufficient to justify such a measure. It was begun, carried on, and executed against the laws, customs, and usages of one of the contracting parties.

First. It was begun contrary to those laws, because the Senecas did not, in a council of their own, and among themselves, first agree to a sale of their reservations, and authorize their chiefs to negociate the same. Touching all treaties for the sale of their lands, the proposition for such sale must first be laid before the whole nation in council. If such council, after full deliberation, agree to the sale, they authorize the chiefs to negociate, and thus they become the proper agents of the nation, and are bound to consult its interests by obtaining the best and fullest consideration for the transfer. Without such provision, a few individuals of the nation might, through corruption or otherwise, sell all their territory, with its improvements, against the will of every one of the people except themselves. This is not an extravagant supposition, for, in the case now before us, out of a population of 2449, only 138 are in favor of a sale, and this small minority includes Nathaniel T. Strong, and all the bribed chiefs.

Secondly, It was carried on contrary to the usages of the nation, because the majority of the names on the treaty were placed there in *a private, clandestine way*, and not *in public council*. A chief *out* of council cannot lawfully sign a treaty, unless specially delegated by a council for that purpose.

Thirdly, It was executed contrary to law and usage, because several of the signers were not legally constituted chiefs, and, therefore, had no authority to sign a treaty either in or out of council.

And lastly, It was not ratified by the Senate of the United

States, according to the express provisions of the constitution, which says, "the President of the United States shall have power, by and with the advice and consent of the Senate, to make treaties, provided *two-thirds* of the Senators present concur." The treaty, when last returned to the Senate, had not been executed according to the conditions required by the Senate itself—and this fact was duly announced to that body by the President, who, in his message, declared that he could not consistently with the resolution of the Senate of the 2d of March, 1839, cause the treaty to be carried into effect. When the final vote was taken on the question of its ratification, the Senate was equally divided, and the decision was made, not by a concurrence of "two-thirds of the Senators present," but by the casting vote of the Vice President. Out of 52 Senators, only 19 voted for the treaty, there being at the time but 38 present.

One of the prominent measures to which the author of the "appeal" has resorted, to reconcile the public to the cruelty and injustice of the Land Company, is to represent his brethren as ignorant and vicious—already sunk and still sinking deeper in misery. This is a policy that is by no means new. It has been common for those who would deprive the Indians of their lands, first to describe them as ignorant, or stupid, or savage, and then, "for such worthy cause, to doom and devote them as their lawful prey," to put them out of the pale of civilization, and then shut upon them the gate of mercy.

But it is not true that these remnants of the Six Nations are either barbarous or vicious. On the contrary, they are an innocent and improving people. Feeling their own weakness, they have been forced to yield to oppression and injury; but they are neither quarrelsome nor vindictive. They are the remnant of a bold, warlike and highly gifted race; fallen indeed from the dizzy height of a tremendous political and physical power, but bearing that fall with patience and dignity, inspiring respect, and rendering them objects of intense interest to the philanthropist and philosopher.

These New York Indians, like all other communities of mankind, present great varieties of character and grades of intellect; but as a people, perhaps none of the aborigines of North America have equalled them in all the manifestations of mental power. They have not had the use of letters to store their minds with

knowledge, or to record their own achievements; yet we know that they have had many great and highly talented men among them, who, making a very moderate allowance for the want of education, would not suffer by comparison with the greatest of their European competitors. They have, from the earliest time, been considered a very extraordinary race, distinguished from all the surrounding nations by their capacity for negociation, eloquence, and war. Remarkable for the love of liberty, they scorned submission to foreign control. Baron La Hontan says of them, "they laugh at the menaces of kings and governors, for they have no idea of dependence—the very word to them is insupportable. They look upon themselves as sovereigns, accountable to none but God, whom they call the Great Spirit." De Witt Clinton, in his history of the Six Nations, informs us, that they held "supremacy over a country of amazing extent and fertility, inhabited by warlike and numerous nations, which must have been the result of unity of design and system of action proceeding from a wise and energetic policy, continued for a long course of time. That in eloquence, in dignity, and in all the characteristics of personal policy, they surpass an assembly of feudal barons." Their territory was estimated at 1200 miles long by 700 broad, including the great lakes or inland seas which bound our possessions to the north. Among their orators they have had a Garangula, a Cornplanter, a Red Jacket, and a Big Kettle, of whom an elegant writer has said, "they were men whose majesty of mind shone with a lustre that no belittling appellatives could bedim." President Jefferson says, "I may challenge the whole orations of Demosthenes and Cicero, and of any more eminent orator, if Europe has furnished more eminent, to produce a single passage superior to the speech of Logan," yet this Logan was the son of a Cayuga Chief, one of the New York Indians.

The author of the "appeal," in order to enlist the feelings of the "Christian community" against the friends of his nation, opens his case by misrepresenting the state of his own people. "Our people," says he, "after years of suspense and anxiety, considered the question of emigration settled, and they fondly hoped that their rights, under the treaty being now secure and inviolable, they might commence the preparations necessary for their removal; and, with the kind wishes and encouragement of

their white brethren, be permitted to enter on the new path, which a kind Providence had opened for their escape from *bondage, degradation, and misery*, in the cheering hope of enjoying, in the asylum provided for them by your government, the blessings of *freedom* and *independence*."

To a reader wholly unacquainted with the actual state of the Seneca Indians, it would appear, from this statement, that before "the Ogden Company" had most disinterestedly and benevolently interfered for the rescue and relief of that people, they were suffering under some tyrannical government, who held them in "bondage, degradation, and misery,"—that the announcement of the ratification, by the Senate, of the amended treaty, was like the trumpet, proclaiming a jubilee throughout all the land—a liberty to the captive, and a joyous return of an exiled people—every man to his family, and every outcast to his possession!

How unlike the reality is this deceptive fancy sketch! Not a feature in the picture resembles the original. Instead of rejoicing, there was unutterable sorrow. To the poor Senecas it was "a day of darkness and of gloominess, of clouds and of thick darkness," through which a ray of gladness could not penetrate. At a council held with a delegation of Seneca chiefs, at Farmington, in the State of New York, a few weeks after that event, Friends were told that when the news of that ratification was announced to the Indians, consternation and gloom was every where spread over their settlements. Relying on the protection of government, and the justice of their cause, they were not, after the disclosures that had been made to the public authorities at Washington, prepared for such an issue; and, on being apprised of it, they manifested the deepest distress. Their women were seen on all sides weeping—in their houses—along the roads—as they passed to their occupations—and in the fields whilst engaged in their labors. One of their chiefs, in a speech on the occasion, said, "it seems as if we should be worn down. When we see our fields covered with grain, and our orchards loaded with fruit, it only increases our sorrows. We know the treaty has been sanctioned, and we are now in extreme distress."

Such was the unaffected description of their feelings and sufferings. The settled and expressive gloom that was manifested in

their countenances and deportment, attested the reality of their sorrows.

On the same occasion we received a written communication signed by sixteen chiefs of the Tonewanda reservation, from which the following is an extract:

"*Brothers*,—We are in trouble. We have been told that our land is sold. We again solicit your advice and sympathy. Under the accumulating difficulties and trials that now seem to surround us, we feel more than ever our need of the help of the Great and Good Spirit to guide us aright. May His counsel ever guide and direct us all in true wisdom. It is known to you, brothers, that at different times our nation has been induced to cede, by stipulated treaty, to the United States, various tracts of our territory, until it is now so small that it only affords us a home. We hoped, by these liberal concessions, to secure the quiet and unmolested occupancy of this small residue; but we have abundant reason to fear that we have been mistaken. The agent and surveyor of a company of land speculators, known as "the Ogden Company," have been on here, to lay out our land, for the purpose of selling it off. We have protested against their proceeding, and have forbid them, until after a general council, to be held at Buffalo in four days.

Brothers,—What we want is, that you should intercede with the United States government in our behalf. We want *you to know*, and we want *the government and people of the United States to know*, in the first place, that we have never signed a treaty to give up our lands; that of six hundred Indians who compose *this* tribe, *one* Indian only, has signed it!—and he resides at Buffalo!—that this treaty, which, we are told, has been ratified by President Van Buren, we know and are sure is a fraudulent one; that Ransom H. Gillett, the government's agent, violated the good faith of the government, and a law respecting the ratification of treaties, by applying to the Indians at their houses—some of them on their sick beds; also on the highways and at taverns, and offering them money, if they would sign the treaty: that in the general council at Buffalo, for the express purpose of considering the treaty, sixteen chiefs *only*, were in favor of signing it, and sixty-four were decidedly opposed to it; that Jimmy Johnson, the head chief of the Seneca nation, never signed that

treaty; and the putting of his name to the treaty, whether by the agent, or some one else, was *a forgery*.

Brothers,—We want the President to know that we are for peace, and that we only ask the possession of our rights. True, we are small in number, but we only ask for justice. We want to be allowed to live on our land in peace. We love Tonewanda. We have no wish to leave it. It is the residue of the land of our fathers. Here we wish to lay our bones in peace.

Brothers,—We are determined to keep to our lands till our friends send us information and advice, which we want immediately. We want the surveyors to be kept from our land.

Brothers,—In conclusion, we thank you for your friendly assistance heretofore, and earnestly solicit your further advice and assistance.

Signed by JIMMY JOHNSON, the head chief or great sachem of the nation, and fifteen other chiefs.

THOMAS JEMISON, } *Interpreters.*
WILLIAM CLINT, }

ASA CARRINGTON, } *Witnesses.*
STEPHEN ATWATER, }

We have said of N. T. Strong's imaginary scene of joy, exhibited by the Seneca Indians on hearing of the ratification of the treaty, "Not one feature in the picture resembles the original." Inhabiting a country uncommonly rich and fertile, originally well stocked with game, and still abounding in excellent fish, perhaps none of the aborigines of North America, were more comfortably circumstanced than the Senecas. Living on the shores of the beautiful Lake Erie, and the great River Niagara, they had easy access to these waters and their numerous tributaries, in which the GREAT SPIRIT had provided for his red children, a rich and inexhaustible supply of animal food. Free as the air they breathed, and buoyant with life, they were wont, in their light canoes, to skim the bright surface of their rivers and lakes, and amply to draw from this storehouse of the great Creator, the fruits of his bounty. To "bondage and oppression," under the government of the United States, they were strangers. They have always been permitted to retain their nationality, and live under their own laws. The state of New York has treated

them with a liberality and kindness, which history will record to her lasting honor. Their white neighbors dwelling round the borders of their several reservations, have generally maintained towards them the relations of peace and friendship. If we may judge of the feelings of those who reside in their vicinity, by the *deep interest* that has been manifested for their success in the present struggle, we may conclude that nothing but *sordid self interest* has raised them an enemy. It is a fact, that by far the greater part of their sorrows, for more than forty years, has arisen from the cupidity of land speculators; and no source of "misery," in all that time, has proved so fruitful of "distress," anxiety, and bitter suffering, as the interference and action of the "Ogden Land Company."

The cruelty of the attempt to drive these Indians into the wilderness, is greatly enhanced by the consideration, that, within the last half century, under the care of Friends, and being surrounded by a civilized race, with all its advantages before them, they have made a great advance towards a state of civilization. They have good houses, barns, horses, wagons, horned cattle, sheep, swine, and farming utensils. They have places of worship and schools. Some of them can read and write, and have books and private libraries. They have good farms, and are rapidly advancing in agricultural science. Perhaps their greatest deficiency relates to the *mechanic* arts. For the advantages resulting from these, they are mostly dependent on the whites, and obtain them by purchase or exchange. They are just in that stage of their progress from barbarism to civilization, in which, having long ceased to depend on the chase for subsistence, they could not, in that way, now support themselves; while they are not sufficiently advanced in knowledge to subsist without those arts, and others which they have not attained. It would be far less cruel to drive the surrounding white population into the deserts beyond the Missouri, than to send there the Seneca Indians. The former would soon gather round them all the comforts of life—the latter would soon be scattered, or perish for ever.

We have assumed that N. T. Strong, by the term "our people," means the whole Seneca nation, or at least a majority of them. If on this point we have *not* mistaken him, then he has most unfairly represented them. But if he means by "our people," his

own little, and truly "degraded" party, there is certainly more truth in his statement than we have admitted. "*Our people*," says he, "after years of *suspense and anxiety*, considered the question of emigration as settled, and they fondly hoped that *their rights* under the treaty, being now secure and inviolable, they might commence the preparations necessary for their removal." That the reader may be able to appreciate this statement, under the supposition that Nathaniel means, by "our people," *only* his own party, we must bespeak the patience of the reader while we state a few facts, necessary to a proper understanding of the subject.

In the summer of 1839, a council of the Six Nations was called, by the President of the United States, and attended, on behalf of the government, by the Secretary of War. The President, knowing the friendly relations which had long subsisted between the Indians and the Society of Friends, invited us to attend that council. To most of the committee, who accepted that invitation, the circumstances of the Senecas, in relation to the amended treaty, to the facts connected with its origin, with the progress of its negociation, and with its alleged execution, were at that time but partially understood. We, therefore, attended that council rather as learners, than as counsellors in their cause.

On inquiry respecting the numbers of the two parties, we were astonished to find that, according to the Indian account, not *one-fifteenth part* of the nation were in favor of removal! Their report on this subject was founded upon a census, which had been taken one year previously, by very respectable agents, and duly certified, with legal solemnities. According to this census, the whole number of Senecas, exclusive of the Tuscaroras and others, was 2505. Of this number, there were *against* emigration, 2359; *for* emigration, 146. Although this census bore an official character, yet, fearing there might be some mistake, and wishing that no uncertainty might rest on the subject, we advised that another should be taken, by men of undoubted veracity, and duly certified according to law. This was done, and the numbers returned were, 2449 Senecas, of whom there were *against* emigration, 2311, *for* it, 138. The difference in the two censuses

being accounted for by death, removal, and absence on hunting expeditions.

The persons employed to take this census were Ariel Wel man, commissioner of deeds for Cattaraugus county; Lewis P. Thorp, justice of the peace; Joseph N. Hillman, superintendent of Indian concerns on Friends' settlement at Cattaraugus; E. M. Pettit, justice of the peace; John Kenedy and John Hudson, Indian chiefs at Buffalo reservation; Peter Wilson, Cayuaga chief and educated interpreter, and others. They were all severally sworn or affirmed to the truth of their statements, and, from the well known characters of these agents, we have full confidence, that the trust was faithfully executed. By a comparison of the two censuses, it was evident that the numbers of the two parties had been correctly reported, and that the returns in both cases were a close approximation to the truth; and we felt ourselves justified in stating to the officers of government at Washington, that *not one-fifteenth part of the nation* were in favor of removal. This statement was considerably within the bounds of truth, for, in fact, the *emigration party did not amount to one-seventeenth part of the whole!*

N. T. Strong says, "*Our people*, after years of suspense and anxiety, considered the question of emigration settled, and they fondly hoped that their *rights*, under the treaty, being now secure and inviolable, they might commence the preparations necessary for their removal," &c. That "our people," meaning N. T. Strong's party, were thus relieved from "suspense and anxiety," and could indulge in "*fond hopes*" for the future, is easily accounted for. The *leaders* of this party were Nathaniel T. Strong and the *bribed chiefs*, who had deceived their ignorant followers, with fanciful descriptions of the wilderness beyond the State of Missouri. The sums *already ascertained* as coming to *only ten* of them, amount to more than 20,000 dollars! By the written contracts the chiefs were not to receive "the price" of their treachery, until "within three months after notice of the ratification of a valid treaty." These corrupt chiefs, now "fondly hoping that their *rights* under the treaty" were "secure," and that the "pieces of silver," (the "price" for which they had betrayed, and sold into a cruel exile, 2311 of their own people,) were now about to come into their "bag," felt much relieved from "suspense and anxiety."

This was very natural; for, these poor "degraded" creatures, had then been about *two years*, very doubtful whether their treachery would ever receive any other reward than infamy and scorn. It was, of course, a great relief to think, that if they had *lost their character*, they would *gain the money!*

It might also have been some "relief" to such minds, to consider, that if, through their agency, 2311 men, women, and children, from decrepid old age to helpless infancy, were driven from their comfortable homes, into a waste howling wilderness; *these betrayers of their own flesh and blood, might quietly stay at home, and live in comparative luxury*—enriched by enormous bribes. And it might be a further relief, to get rid of men whose presence was perpetually reminding them of their own baseness.

Nathaniel T. Strong, in a letter to the Secretary of War, dated March 7, 1839, amongst many other gross falsehoods, had the boldness to declare, in contradiction to facts well known to himself, that "it is *admitted on all hands*, that a *numerical majority*, comprehending most of the principal chiefs, have executed and assented to the treaty." He then proceeds, "What more will be required? Four or five additional names could hardly strengthen the deed, for it is already most emphatically, and according to the strictest rules of the whites, *the act of the nation*."*

It is curious fact, and one to which we would invite the particular attention of the reader, that at the very time Nathaniel was writing this letter, and in the most imploring attitude supplicating Government to consummate this iniquitous treaty, there were on the two Reservations at Tonewanda and Allegany, containing together a population of 1224 persons, *only three individuals who were willing, even to say they would remove!*—and on the other reservations, having an aggregate population of 1225 souls, only 135, including himself and all the *purchased signers*, were *professed* emigrationists!!

We can hardly conceive it possible that any evidence, short of mathematical demonstration, could more clearly prove his utter disregard to truth, or the nefarious character of this treaty concern, than that which these facts afford. In the execution of a treaty by the representatives of only *one hundred and thirty-*

* Senate's Doc. 1840, p. 279.

eight persons, out of *a population of two thousand four hundred and forty-nine*, we have what this *veracious* Nathaniel T. Strong calls "*the act of the nation, most emphatically*, and according to the *strictest rules of the whites.*" According to this new code of morality, 1224 persons, against their will, and in contempt of their tears and intreaties, may be driven from all the endearments of home, at the suffrage of *three individuals!*—each of whom, in all probability, were *largely paid* for their vote, and, after all, are to spend their days on the ground they now occupy! Yet we are told this is "according to the strictest rules of the whites!"

It is no cause of marvel that this census and classification of the parties, for and against emigration, should so manifestly disturb the feelings, and call forth the invective of our Indian opponent! They afford a species of evidence in the case, that must carry conviction to every unprejudiced mind; they speak a language not to be misunderstood; they leave to sophistry no room to mystify, to chicanery no hope to deceive.

The only way to remove this formidable foe to the emigration scheme, is to prove it false; and this may easily be done, if the census be not a fair representation of facts. We have given not only *the numbers* in each family, we have given *the name* of the *male head* of each family, where it had a male head, and of the *female head* where the family had no male head; and we gave the number of chiefs, warriors, women, and children belonging to each.*

It must be obvious to every reflecting mind, that it is only on a just representation of *the numbers* in favor of, and opposed to emigration, that we can come to a sound conclusion in regard to the *equity* of the treaty. It is, now, almost universally allowed, that, in popular governments, there is no *natural* means of deciding a case where *all* are equally concerned, so reasonable, so equitable, so feasible, as *by majorities.* The principle has been unanimously adopted by the people of this country; it lies at the foundation of all republican institutions, and is the mode of decision, in all our deliberative assemblies, for civil purposes, from the Congress of the United States, down to the lowest juvenile de-

* See Censuses, "Case," pp 148, 153, 159, &c.

bating club. It is, in fact, the mode adopted in this very case by our government—it is one of the principles upon which the President of the United States refused to ratify the treaty, and returned it to the Senate with this language, "a *vast majority* of the New York Indians were adverse to the treaty,"—"nor can the assent of *a majority* of them [the chiefs] *in council*, be now obtained."

It is true, a treaty may be "valid," if executed by a majority of chiefs, duly constituted as such, although contrary to the will of a majority of the people composing the nation, because such chiefs may be corrupted, and it may become *a law* by its execution and ratification, according to *legal forms*. If this treaty had been so executed and ratified, although we might have deplored the fact, and been pained in the consideration that it was *not equitable*, yet we should not have appealed to government in the language we now do. We might have asked for mercy and compassion *against that law*. We now ask for justice and mercy, *according both to law and equity*.

Nathaniel T. Strong, sensible of the awful import of this "census," and afraid to touch it, is, at the same time, well aware that, to pass it by unnoticed, would be to leave a most formidable enemy, strongly entrenched in his rear. Like one on whom is imposed a necessity to take a nauseous dose of medicine, he shrinks from the imposition, but, with the impossibility of evasion before him, submits, and makes a short concern of it. We will give our readers a sample of his contortions in this case of difficulty. He says:—

"What does this pretended 'census' amount to? The Quakers send emissaries upon their own representations of the dangers and privations incident to a proposed emigration to the distant regions of the west, to collect the suffrages of men, women, and children on that measure—of men *too ignorant to appreciate its advantages*, and of women and children equally ignorant, but more easily alarmed by well told tales of horror and hardship; and this species of *farce*, devised and got up by 'the delegates of three yearly meetings,' is dignified by the name of *a census*."

The most remarkable characteristic of this paragraph is, that it contains *neither fact nor argument*. On the great question before him, he neither admits nor denies the truth of our statement.

The question is not, by what *means* the Seneca Indians have been brought to love their own beautiful country, the seat of their ancestors for perhaps a thousand years!—we are not inquiring how it has happened that they are so much attached to the land of their birth, and the scenes of their childhood. On that question there might be some difference of opinion. But the question is, are there, out of the whole number of Seneca Indians, amounting to 2449, only 138, who are willing to abandon their present comfortable homes, and encounter all the difficulties, and dangers, of a new settlement, in an uncultivated wilderness? That is the question! and, until N. T. Strong can answer it better than by calling our "census" a "species of farce," it would be prudent to say nothing at all about it.

In the paragraph just quoted, our opponent has been more generous than just to Friends. He gives them credit for more than they deserve. We were spared the expense and trouble of *sending* "emissaries" several hundred miles to take a census. We found excellent agents on the spot. How eloquently they may have depicted to the women and children, "the dangers and privations incident to the distant regions of the west," we have no means to ascertain, although we suppose they had not much trouble in that way, as the Indians already understood this part of the subject much better than their friends. Seneca White, of Buffalo, Israel Jemison, of Cattaraugus, and William Patterson, of Alleghany, all chiefs of the Seneca nation, men of high respectability and standing in their tribe, had all been on exploring parties, who had examined for themselves, and for the nation, this boasted elysium of the land speculators! The knowledge thus derived, enabled them to describe to the "men, women, and children" of their respective reservations, all the "horrors and hardships" of the proposed change, without any aid from us.

Seventy-five chiefs and sachems, in a memorial to the President of the United States, dated January 23d, 1840, say, "the climate of the country, to which it is proposed we should emigrate, is unsuited to us, and we fear that our people would not be healthy. We dislike to be brought into contact with the warlike nations, that live near the land offered us. The country we do not think is well timbered; and the proposition of government, to supply

us with sufficient timber, is too difficult to be executed satisfactorily either to the government or us."*

One of their gifted chiefs,† who, through the bounty of our government, has had the benefit of a literary education, writing on this subject, uses the following language: "Population is with rapid strides going beyond the Mississippi, and, in process of time, will not our territory *there* be as subject to the wants of the whites, as that is *which we now occupy?* Shall we not then be as strongly solicited, and by the same arguments, to remove still further west? But there is one condition of a removal, which must certainly render it hazardous in the extreme to us. The proximity of our then situation to that of other and more *warlike tribes*, will expose us to constant harassing by them: and not only this, but the character of those worse than Indians, those *white borderers*, who infest the western limits of the white population, will *annoy us more fatally* than even the Indians themselves. Surrounded thus by the natives of the soil, and hunted by such a class of whites, who neither "fear God nor regard man," how shall we be better off there, than where we now are?"

"We desire to renounce those habits of mind and body which prevailed when the country was first taken possession of by the Europeans, and adopt in their stead, those habits and feelings—those modes of living, and acting, and thinking, which result from the cultivation and enlightening of the moral and intellectual faculties. On this point I need not insult your common sense by endeavoring to show that it is *stupid folly* to suppose that a removal to the western wilds would improve our condition. What! leave a fertile and somewhat improved soil—a home in the midst of civilization and Christianity—where books, and preaching, and conversation, and business, and example, whose influence we need, are all around us, so that we have but to open our ears and turn our eyes to experience their enlightening effects? Leave

* "Case," p. 178.

† See a work entitled "Address on the present condition and prospects of the aboriginal inhabitants of North America, with particular reference to the Seneca nation." By Maris B. Pierce, a chief of the Seneca nation, pp. 16, 1838.

these!—and for what? Methinks I hear the guileful whisper of some land company agent answer, 'for one or two dolllars an acre!' And is the offer liberal? Of that, who but ourselves are to be the final judges? It is well known that those who are anxious to purchase our reservations calculate safely on fifteen dollars the acre *for the poorest*, and up to *fifty and more* for the other qualities! By what mode of calculation or rules of judgment is one or two dollars per acre a liberal offer to us, when many times that sum would be only fair to the *avarice of the land speculator?*"

"Our lands are as fertile, and as well situated for agricultural pursuits, as any we shall get by a removal. The graves of our fathers and mothers and kindred are here; and about them still cling our affections and memories. Here is the theatre on which our tribe has acted its part in the drama of existence, and about it are wreathed the associations which ever bind human affections to the soil whereon one's nation and kindred and self have arisen and acted. We are here in the midst of facilities for physical, intellectual, and moral improvement. We are in the midst of the enlightened. We see their ways and their works, and can thus profit by their example. We can avail ourselves of their implements and wares and merchandise, and, once having learned the use of them, shall deem them indispensable. We are here more in the way of instruction, having greater facilities for getting up and sustaining schools; and, as we come to feel the want and usefulness of books and prints, so we shall be able readily and cheaply to get whatever we may choose. In this views of facts, surely there is no inducement for removal."

But what are his readers to think of the *modesty* of our Indian author? He makes no hesitation in proclaiming to the world *his* superior capacity to judge of things requisite to make other people happy. The Indians, opposed to him, are "*too ignorant to appreciate the advantages of emigration.*" He insinuates that they are a very *obstinate* race, because, after having, through their most faithful and confidential chiefs, carefully examined the western wilds, and found them wholly unsuitable for their residence, they will not surrender their judgment to a single individual, or, at best, 2311 will not submit to 138. But, to those who are acquainted with Seneca White, Israel Jemison, and William Pat-

terson, all attempts of our author to set himself above them, either in point of intellectual power, clear discernment, or sterling good sense, will be in vain. It is true, their vision has not been improved, by what N. T. Strong calls "a personal gratuity," nor by a "lease for life," of their own lands!—but, in estimating the conduct of those, who appear so anxious *for their prosperity*, they have discernment enough to perceive that, like Esop's wolves, who were so much concerned for the health of their sick neighbor, the Ogden Land Company have other motives than those that appear on the surface.

"But," says our author, "What does this pretended census amount to?" We will tell him. In the first place, it furnishes an unanswerable refutation to all the false statements about *majorities*, by which men in authority, and others, have been most grossly deceived! Secondly, It manifests the turpitude of those chiefs, whether bribed or not, who signed the assent to the amended treaty; because, at their inauguration, they solemnly engage to *represent* the nation, instead of which, they undertake, with a small minority on their side, cruelly to *drive away* sixteen-seventeenths of their constituents. Thirdly, it throws out into bold relief, the selfishness and obduracy of those who, having stripped the Senecas of all their vast domain, except four comparatively small lots, are *still insatiate;* and, in order to take their last mite, do not scruple, by means most foul, to drive them into a situation wholly unsuited to their habits, their health, and their inclinations. In short, it shows, by *implication*, what other evidence proves *directly*, that the treaty was fraudulent *ab initio*. This is what the census amounts to. And we have yet so much confidence in the discernment and integrity of "the Christian community," as to believe that, when truth shall be wholly unveiled, she will, with *this census in her hand*, carry conviction to every unprejudiced mind.

Not only the census has put Nathaniel into a trying predicament, the "affidavits," or "official documents," have scarcely been less offensive to him. These "affidavits," amounting to thirty-six in number, occupy more than fifty pages of our book, and present to view a scene of great activity and exertion, covering a space of about two years. We are not much versed in the *arts* of treaty-making, nor in the ways of commissioners and agents in

such business, but we are much mistaken if the annals of diplomacy, from the days of Macchiavelli, down to the present time, a period of three hundred years, can furnish a better illustration of the principles of that perfidious politician. A more extraordinary scene of operations, to gain a favorite object, *regardless of the means*, than these affidavits unfold, is, perhaps, not to be found in history. In the "Case of the Seneca Indians illustrated," (p. 14) we thus briefly noticed the subject:—

"A scene now opened, perhaps unprecedented in the annals of treaty-making. Runners were hired to scour the forests, and bring in every chief who could be prevailed upon, by means fair or foul, to sign the assent. Day and night their wigwams were invaded for this purpose. They were waked from their sleep—besieged by the way, when pursuing their business—chased down, in attempting to escape from importunity, or forced to stay from their homes to avoid it. Spirituous liquors were employed to intoxicate them—false representations to deceive them—threats to intimidate them—and vain hopes to allure them."

Nathaniel T. Strong, in his pamphlet, p. 17, says these are "vague charges." What he means in this case by the term "vague," as applied to those "charges," is not very clear. Does he mean *indefinite? ambiguous?* not *specific?* We think few will concur with him on that point. Does he mean not enough in detail? If so, we shall agree with him there. We regret that the limits of our concern at that time would not admit a more extended review of the facts and occurrences of that memorable era. To supply this defect, and, as the best remedy then in our power, we published the "Affidavits." And we would most earnestly recommend to those who wish to understand the subject, who would like to have a panoramic view of this wonderful scene, that they read, attentively and patiently, all the official documents, and particularly the "Affidavits." By these documents it appears that, in 1838, when commissioner Gillett was endeavoring, in the way already mentioned, to get the *amended treaty* executed, there were bribes offered to twelve Indians amounting to more than $30,000—besides great quantities of land on their reservations, some on lease for life, and some in fee simple.

In order to remove the effects which these documents have produced, and will produce on "the Christian community," he

seeks to destroy the character of the witnesses. Like a shrewd lawyer, our opponent is aware, that such a train of evidence against him, so clear, so minute, so multifarious, and all going to the same point—if it remain unimpeached, *must be fatal to his cause*. We will now see how he goes about to accomplish this end. He says:—

"The parade of affidavits, procured by similar means, [that is, by emissaries,] from people, *fourteen-fifteenths* of whom are wholly unacquainted with the nature and solemnities of an oath, would seem to me to deserve no greater attention than the census, except, as evincing the *extraordinary means* resorted to by a religious society, professedly opposed, on principle, to this form of appeal to the Supreme Being, and generally most uncompromising in maintaining their scruples."

The guilt of a criminal is often most clearly perceived in his anxiety to hide it! Our opponent artfully attempts, in this case, to *shift the question* from *the evidence* itself, to the *mode of procuring it*,—to draw public attention from the *culprit* to the *prosecutor!* These are some of the "arts of hiding," which a crafty counsellor knows well how to use when driven into extremities. To Nathaniel "it seems that these affidavits deserve no greater attention than the census." Let us suppose they do not; does it therefore follow that *neither of them* deserve attention? To us it appears that there are no points in this cause, considered in connection with *questions of law* or equity, that are deserving of deeper attention, unless it be the "bribery contracts." It is evidently his intention to slur them all over as lightly as possible. *He* calls the census a "farce," and thinks the *affidavits* "deserve no greater attention than this farce!" *We* think both the census and the affidavits very grave matters—very weighty subjects—and intend to treat them accordingly; perhaps our opponent may think so too before the close of the concern.

In his attempt to invalidate the evidence adduced, he desperately oversteps the bounds of probability, by telling "the Christian community," that "*fourteen-fifteenths*" of the sachems, chiefs, and headmen of the Seneca nation, who have signed these affidavits, are wholly unacquainted with the nature and solemnities of an oath. We will venture to assert, that there is not a respectable man in Cattaraugus, Erie, and Niagara counties, in which

their reservations are located, who is acquainted with these chiefs, that will believe assertions so untrue, and which are calculated to render all testimony, *resting solely on his veracity*, wholly worthless. We cannot think so meanly of the capacities of these chiefs as to admit that they are "unacquainted with the nature and solemnities of an oath." We know better; we know they are respectable, intelligent men. But if it were true, it would not necessarily follow that they are wholly unacquainted with the *distinctions between truth and falsehood*, nor insensible to the obligation of speaking truly and sincerely on all occasions. That awful and degraded state is *always the result of wickedness and crime;* of habitual indulgence in *deception and fraud*, whereby the mental perceptions become dull and cloudy. It is then that the oath loses its solemnity, and the vow its obligation: and pursuing this downward course, a man may at length be brought to believe, that the perceptions of others are as obtuse as his own.

As to *the mode* by which the affidavits were obtained, we cannot see what it has to do with the business, unless it could be proved that the *motives* were corrupt, and the *means* fraudulent or unfair. Had our object been to possess ourselves of the Indians' land, and to attain that end, had we spent thousands in the pay of our emissaries, and in *bribing* the chiefs, then, indeed, might N. T. Strong fairly enter his sentence of condemnation against us. If we were to admit (which we do not) that those affidavits were procured by *our* "emissaries," *that* would be no evidence that our emissaries were not good, honest, upright men, nor that the returns were false. We should be either blind, or recreant to the cause of justice and humanity in which we are engaged, if, on such a public mission, we should send low or degraded characters. It would have been happy for the poor Senecas, if the agents and emissaries sent among them by *other authorities* had been as disinterested and as clean-handed as ours: then all *their* present distress, and all *our* present trouble, would have been prevented. The truth is, that, of the thirty-six affidavits published in our book, *nineteen* of them were obtained by the Indians themselves, before the committees of the three yearly meetings had interfered in the treaty subject at all. The remaining *seventeen* were taken *in our absence*, by the Indians themselves, in defending their own cause, in their own way.

In the latter part of the paragraph, just quoted from the "Appeal," it is admitted by our opponent, that the affidavits, *on one account*, have superior claims to attention: and that is "as evincing the extraordinary means resorted to by a religious society, professedly opposed in principle to this form of appeal to the Supreme Being, and generally most uncompromising in maintaining their scruples." He *insinuates*, but does not say it, that in sending emissaries to procure affidavits, we had, in some way, violated our well known testimony against swearing! but how, or in what way, he does not explain. An Indian chief is called upon to give testimony *in his own cause*, and according to *his own views of propriety*. He goes before a magistrate and relates the facts of the case. The magistrate takes the testimony in writing, and the Indian verifies it, either by oath or affirmation, as he believes right. How this can involve Friends in such a charge, it is beyond our capacity to comprehend. But the real object of the writer was, no doubt, as we have said, to draw the reader's attention from the *culprit to the prosecutor*, and by this means to save the affidavits from the close scrutiny they deserve, and which their importance to the cause demands. That Friends are generally uncompromising in maintaining their own scruples, is very true—at the same time, they have neither the inclination nor the power to dictate a course to others. If Nathaniel had shown that any member of the Society of Friends, had been *taking or administering an oath*, he would have done something to the purpose,—as it is, we think, his arrow has fallen short of the target, and exposed his own weakness.

After a fruitless effort to justify the course of the Ogden Land Company, by quotations from letters of T. H. Crawford, Commissioner Gillett, and General H. Dearborn, all of which have been effectually scrutinized and disposed of by Senator Sevier,* he goes on to say:—

"I now pass to the consideration of the remaining charge impeaching the validity of the assents to the *amended* treaty: viz., the employment of bribery to obtain them."

"I would remark preliminarily that this charge refers to trans-

* See Sevier's speech, "Case," p. 37, &c.

actions connected with the negociation of, and *all* prior to, the original treaty."*

This is not correct, the charge of bribery did not relate *exclusively* "to transactions connected with the negociation of, and *all prior to the original treaty.*" It would have been evidence of great ignorance, both of facts, and our duty, to have confined the charge of bribery to "the original treaty." It would have been, in effect, to release the Ogden Company in some degree from the charge of bribery as connected with the *amended treaty, the only treaty in fact with which we have now any controversy.*

In our book, "The case of the Seneca Indians illustrated," we published the ten contracts, all under the hand and seal of "Heman B. Potter," who in the said contracts styles himself "of the city of Buffalo,"--"empowered to act on behalf of the said proprietors of the pre-emptive title." These contracts bind the Ogden Land Company, "within three months notice of the ratification by the Senate of the United States, of a *valid* treaty, &c., to pay or cause to be paid" to the said ten Indians the aggregate sum of more than *twenty thousand dollars;* which sum was to be in payment for services to be rendered before the treaty was to be returned to the Senate. These services were "to dispose and induce the Seneca tribe of Indians to accept for their future and permanent residence, the country west of the Mississippi; and also "on all occasions to co-operate with and aid the said H. B. Potter and his associates, as from time to time advised, in talks and negociations with the chiefs and other influential men of the said tribe, in the active application of *their whole influence*, at councils and *confidential interviews*, for the purpose of effecting the treaty."

So far the charge of bribery did refer "to transactions connected with the negociation of, and *all prior* to the original treaty." But it was not to them, (when speaking of transactions that occurred one year after the date of these contracts, at the time the amended treaty was before the Indians,) we alluded, when we said, "*By reference to the course pursued by the Commissioner, as described in the official documents, it is evident that he so un-*

* Appeal, p. 20.

derstood his instructions [to take the assent in open council] *and so continued to understand them, while there was a hope, that* BY LARGE BRIBES, LEASES FOR LIFE FREE OF RENT, FEE SIMPLE TITLES, THREATS OF FORCIBLE REMOVAL, *and other means noticed in the said documents, a majority of signatures could be obtained in open council.*"

These "large bribes," "leases for life free of rent," "fee simple titles," "threats of forcible removal," &c., all alluded to transactions connected with the negociation, not of "the *original* treaty" but of the "AMENDED TREATY." It was by no means our intention to waive the charge of bribery, in the case of the latter--such waiver would have been an abandonment of one of the weightiest reasons why the amended treaty should not be carried into effect. The amount of bribes offered in case of *the amended treaty*, was greater, so far as yet discovered, than the amount in the other. To Morris Halftown, Wm. Jones, Seneca White, John Snow, and nine other chiefs* the value of the bribes offered for their *assent* to the *amended treaty*, &c., amounted to $32,600. Our opponent cannot, by such means, get clear of this onerous allegation against that treaty. This weighty charge remains against it, with as much force as against the original;—nay more, inasmuch as the amount of bribery in the latter case, exceeds the former, about fifty per cent.

But, says our author, "Let me ask what is the meaning of the term *bribery, as applied to Indians?*" We answer, precisely the same thing as when applied to white men. We are not aware that the "Christian community" have formally recognised two different codes of morality, one for the Indian, and another for the Anglo-Saxon race. We know at least that the author and founder of Christianity did not. "Whatsoever ye would that men should do to you, do ye even so to them," is a standard of universal authority, attested as well by the dictates of reason, as by the higher sanction of an express divine command.

Our Lexicographers explain the term bribery as "the act of

* See Affidavits, Morris Halftown, page 207, Sky Carrier, 208, John Banks, 212, Geo. Conjockeyta, 213, Samuel Wilson, 214, Wm. Jones, 216 and 232, David White, 218, John Tallchief, 219, Wm. Cass, 223, Seneca White, 233, John Snow, 241.

giving a person money to engage him to a particular side, or a particular undertaking, accompanied by the idea of *illegal practice* in the giver, and *corrupt principles* in the receiver"—"to bribe is to gain or corrupt by gifts," and is generally effected in a dark, clandestine, or covert manner.

But the question is, "What is bribery when applied *to Indians?*" This question has been answered, as it relates to Indians *in general*—we will now endeavor to answer it as it regards the *Sencca Indians in particular.*

The Seneca nation is one of a confederacy called "The Six Nations." Each nation elects its own chiefs, which are reported to a general council of the confederacy. If, in this council, such chiefs are approved, the voice of the particular nation is confirmed; and they are, by a long and solemn process, with great form and ceremony, inaugurated. By this process they become chiefs of the nation, and counsellors of the confederacy. Their duty, in general, is to guard and protect the interests of the nation, as *its representatives;* and to act for its welfare, according to the laws, customs, and usages transmitted from their ancestors, or adopted by themselves. "Touching all treaties for the sale of their lands, and, of course, involving their dearest rights, their law is, that any *proposition for such sale* or transfer, and *the terms* on which it is proposed to make it, must first be laid before the nation in council. If the proposition is approved, the chiefs are authorized to negociate, and thus they become the duly constituted agents of the nation, *for the purpose of a sale.*" If in any point they differ in judgment, *a majority* is supposed to express the will of the nation. As the people are unacquainted with letters, and therefore subject to imposition, they have ordered, that *the final ratification* of treaties for the sale of lands, shall be done in *open council;* where all may hear, and each may sit as guardian of the whole. No chief or sachem, however high his station, has any power or authority in such cases, *out of council*, more than the humblest individual.

Now, in such case, if any man or body of men, shall go to such authorized agents, and propose to purchase their lands; and finding, after much labor to accomplish the object, that *a large majority* of them are hostile to the project, and decidedly unwilling to sell—and so finding them, shall begin to tamper, first with

one of the unwilling chiefs, and then with another; and in order to gain them over to a different mind, shall offer them money, *privately and clandestinely*, such offer is *now*, and *ever has been* called *an offer of bribery;*—the acceptance of it constitutes *the act of bribery.*

And let it be borne in mind, that, to the thirteen chiefs before mentioned, to whom the enormous sum of 32,600 dollars was promised, it was not promised as A PRESENT to conciliate the friendship of a dangerous neighbor, or to draw closer the bonds that bind old friends—it was not A GRATUITY in acknowledgement of past kindness, nor a MEMENTO of some ancient family alliance. No. It was a *contract for services to be rendered:* it was a "*bargain and sale*" *with a quid pro quo:*—it was the act of giving money to a chief to "engage him to a particular side," [the emigration party] and to "a particular undertaking," [the exile of the nation]—it was paying *a price*, for betraying the people into measures deeply affecting their welfare, and contrary to their wishes,—it was a clandestine act, "done in a corner," without the knowledge of the party most nearly concerned in it,—it was, in fine, an act of the most criminal nature, without any allay of virtue. This is what we deem a clear answer to the question, "What is the meaning of the term BRIBERY *as applied to Indians?*"

To the correctness of this conclusion we have the testimony of the Committee on Indian affairs, in their report to the Senate of the United States, dated February, 1839, in which they say, "those opposed to the treaty, accuse several who have signed their *assent* to the *amended treaty*, with having been BRIBED; and, in at least *one instance*, they make out the charge very clearly." The "one instance," here alluded to, was the case of John Snow,* the only chief that had then made a disclosure of such attempts at corruption. Nine others have since come to light.

"Here," says Senator Sevier, addressing the Senate, "here we have a few illustrations, most *liberal* and *honest* and *patriotic* illustrations, of the means used by the agents of this Land Company, and under the authority of the proprietors, to induce the

* "Case," p. 231.

leading and influential chiefs to sell the lands of their unwilling constituents." "By these dark and midnight transactions, the order of things was to be curiously reversed. The *emigrating party* were to stay in New York on their leases, and the *non-emigrating party* were to be transported beyond the Mississippi. And are these contracts denied? No sir! They are unblushngly and shamelessly admitted and justified by Nathaniel T. Strong and White Seneca, Indian chiefs, and they are admitted by Orlando Allen, a white man, and one of the active agents of the Land Company.*"

And now, after a lapse of about two years, this same Nathanie T. Strong has the effrontery to come before the public *in print*, and appeal to "the *Christian* community," with this mark of corruption, thus publicly stamped upon him in the highest tribunal of our country! He comes, not to deny these palpable facts, and wipe the dark stain from his own character, but to *justify* the ignominious transaction, by an attempt to bring others down to the level of his own depravity. To do this, he tries to draw a parallel between the conduct of William Penn, when treating with the natives of our country, and the "dark midnight transactions" of the Ogden Land Company! He tells us that "the difference in practice between the pre-emptive owners of the present time, and those of the time of Penn and other colonists, *is*, that what then passed under the name of *presents*, is now termed *bribery!*"†

But *comparisons* are frequently imprudent, and *sometimes dangerous*, and perhaps no case on the page of history could have been selected, to show off the Ogden Company more to their disadvantage, than that of the great and honorable founder of Pennsylvania. His conduct toward the aborigines of our country, his justice and his kindness to them, his parental care and affection

* "Case," p. 76.

†"Orlando Allen, an agent of the Land Company, and directly interested in the success of the treaty, assimilates these rewards promised and given to these chiefs, in this underhanded and clandestine manner, to the annuity given to Red Jacket, Cornplanter, and others. Sir, there is no similitude in these cases. What was given to Red Jacket, Cornplanter, and to the others he has named, was given in open day, in the presence of the nation, and with the knowledge and approbation of their tribes."—Sevier.

for them, have been for upwards of a century, a favorite theme for poets, orators, historians, and moralists. Towards the natives he used no guile, he practised no frauds. His whole intercourse with them was an intercourse of kindness, an exchange of good offices: and the consequences were, as might have been expected, uninterrupted peace and harmony between them during his whole life, and, after his death, with his successors, for about forty years, or until the reins of government passed into other hands.

That William Penn made *presents* to the natives, we have ample proof; and those proofs, in every case on record, are so many evidences of his philanthropy, his kindness, and the goodness of his heart. The benevolence of his disposition, we have no doubt, often led him thus to gratify them, and we have no disposition to deny that frequently, in the warmth of his affection for this noble, though unlettered race,

> "He cheered with *gifts*, and greeted with a smile
> The simple natives of the new found isle,"

but he did not smile to deceive them, nor make gifts to corrupt them; he did not, under a mask of friendship, clandestinely seek to defraud them out of their lands, and then to drive them, against their consent, into a country, where they could see nothing but *present misery* and *speedy destruction*. History and Tradition, as if equally delighted to transmit to posterity the knowledge of his virtues, harmonize on this point. They present to an admiring world, one spot on the wide theatre of political action, on which, as on the green oasis of the desert, the eye of the Christian philanthropist may rest with unmingled pleasure.

The natives, destitute of a written language to record passing events, depend upon memory, for transmitting the knowledge of them to posterity. They of course take great care to impress the minds of their children with the knowledge of important transactions. For the same purpose they introduce their women into their councils—and so faithfully do they chronicle remarkable events, whether as eye-witnesses or as hearers, and so correctly commit them to the rising generation, that, after a lapse of more than a century, their traditions, even in minute particulars, have been found remarkably to coincide with written memoranda.

Proud says, "It was in the year 1682 that Penn began to purchase land of the natives, whom he treated with great justice and sincere kindness in all his dealings and communications with them, ever giving them full satisfaction for all their lands, and the best advice for their real happiness; of which *their future conduct showed they were very sensible*"—"the lasting friendship," thus formed, "ever afterwards continued between them."*

In another place he says, "Penn's conduct to these people was so engaging, his justice, in particular, so conspicuous, his counsel and advice so evidently for their advantage, that he became very much endeared to them, the sense whereof made *such deep impressions* on their understanding, that *his name and memory will scarcely ever be effaced while they continue a people.*"

At a conference held at Lancaster, in the year 1744, a chief of the Six Nations mentioned, in a speech, that, on a certain occasion, when Penn was in treaty with them for some land, he told them they had already sold the Susquehanna lands to the governor of New York, and that the governor, when in England, had sold them to Penn. The Indians told him they had only conveyed them *in trust* to the governor, that, therefore, the sale was a deception; upon which Penn generously paid for the lands over again.†

At a treaty held with the Six Nations at Philadelphia, in 1742, during the administration of governor Thomas, Canassatego, a celebrated Onondaga chief, *remembering the kindness* of William Penn, said, "We are all very sensible of the kind regard which that good man, William Penn, had for all the Indians."

At a treaty held at Easton, in Pennsylvania, in 1756, under governor Morris's administration, Tedyuscung, a noted Delaware chief, made a speech, in which he said, "We rejoice to hear you are willing to renew the old good understanding, and that you call to mind the first treaties of friendship made by Onas, (the Indian name for Penn) *our great friend*, with our forefathers, when himself and his people first came over here." "I wish the same good spirit that possessed *the good old man, William Penn*,

* Hist. Penn. I., pp. 211, 212.

† Drake's Indian biography B. V. p. 21.

who was a friend to the Indians, may inspire the people of this province at the present day."

In 1721, very soon after the death of Penn, a treaty was held with the Five Nations at Conestogo, in Pennsylvania, under Keith's administration. One of the chiefs, with an air of great veneration and respect, said, "they should never forget the counsel given them by William Penn, for, though they could not write as the English did, yet they could preserve in the memory what was said in council." And at a treaty in the following year, held at Albany, their speaker, as the highest compliment he could pay the governor, addressed him by the title of "Brother Onas," adding, "we esteem and love you *as if you were William Penn himself*, and are glad to hear the former treaties made with William Penn repeated to us." "We desire that peace and tranquillity, now established between us, may be as clear as the sun shining in its lustre, without any cloud or darkness, and may endure for ever."

"That William Penn made *presents* to the Indians," we very willingly admit; but he did not, "under a mask of friendship, *clandestinely* seek to defraud them out of their lands." Happily, we have authentic documents to show both the nature of the gifts and the circumstances under which they were made.

In his first letter, addressed to the Indians, dated London, the 18th of the Eighth month, 1681, about one year before he embarked for the colony, he says, "I shall shortly come to you myself, at which time we may more largely and freely confer and discourse of these matters. In the mean time, I have sent my commissioners to treat with you *about land*, and a firm league of peace. Let me desire you to be kind to them and the people, *and receive these presents and tokens*, which I have sent you, as *a testimony of my good will* to you, and my resolution to live justly, peaceably, and friendly with you."

In another letter, in his own hand writing, dated England, 21st of Second month, 1682, written six months before his arrival in America, and read to the Indians on the spot where Philadelphia now stands, by Thomas Holme, Penn's surveyor general; he says, "When God brings me among you, I intend to order all things in such manner that we may all live in love and peace, one with another, which I hope the great God will incline both

me and you to do"—"I have already taken care *that none of my people wrong you*,—by good laws I have provided for that purpose; nor will I ever allow any of my people to sell rum, to make your people drunk. If any thing should be out of order, expect, when I come, it shall be mended, and *I will bring you some things of our country that are useful and pleasing to you*."

In the Second month, according to the old style, called April, in the year 1701, at the time Penn was on his second visit to America, he held a treaty of peace, friendship, and trade or commerce (and also for the confirmation of former grants of land "upon and about the Susquehanna,") with Connoo-dah-toh, king of the Indians about that river, and other chiefs—and Wopatha, king, and other chiefs of the Shawanese,—and Ahoo-kas-songh brother to the Emperor of the Five Nations—and Wee-whin-jou and other chiefs of the Potomac Indians. This treaty was ratified in Philadelphia, in the presence of the proprietor and his council on the one part, and forty Indians, kings, chiefs, and warriors, on the other; the closing article of which is in the following words:

"In witness whereof, the said parties have, as a confirmation, made mutual *presents* to each other: the Indians in five parcels of skins, and the said *William Penn in several English goods and merchandises*, as a binding pledge of the premises, never to be broken or violated."

Here we see, in a very clear light, the nature of the *gifts* or *presents* which William Penn made to the natives. We also see the purposes for which they were made, and the circumstances under which they were presented. Here we find no "dark midnight transactions,"—no *private* "contracts" for the payment of from one thousand to six thousand dollars a piece to individual chiefs for their services, in corrupting their fellows—no lure held out to the cupidity or avarice of the ignorant or weak, to induce them to apply "their whole influence at councils and confidential interviews [mark, *confidential interviews*,] for the purpose of effecting a treaty" merely to benefit what Senator Sevier calls "an overgrown grasping Land Company." No, we discover nothing like this in the conduct of William Penn—nor ever shall, for this plain reason, that he was incapable of such dishonesty! Neither his motives nor his actions were such as to need

concealment. They were *open and honorable.* His presents were made in the face of the day, under the meridian brightness of the noontide sun; and will for ever stand in striking and honorable contrast, to "the dark midnight transactions" now dragged from concealment by irrefutable testimony.

Our opponent repeats, with great triumph, the assertions of Senator Lumpkin, in his speech on the treaty question. In that speech the Senator took occasion to say, "Yes, sir, even under the government of that good man, William Penn, we find the same statute, which made it *a crime* for any citizen to furnish the Indians with intoxicating drink, of any kind, nevertheless, *allowed the commissioners of the government* to administer a *prudent portion of intoxicating drink*, to Indians with whom they wished to form *a treaty*." See Appeal, p. 39.

We will not suppose that the Senator, by this statement, meant to deceive his audience, or to injure the character or memory of William Penn, of whom he otherwise speaks with much respect. But, in his zeal to procure the ratification of this most unrighteous treaty, he has fallen into several capital errors, which we are willing to attribute to misrepresentation and mistake, rather than to a disposition to cover over, or palliate the artifice of those who would make the Indians *drunk*, in order to defraud them. "The statute" to which the Senator refers, in order to screen the Ogden Land Company from *peculiarity* in this crime, was not passed "under the government of that good man, William Penn." It was the work of his successors, who, unhappily for themselves and the colony, abandoned the principles and profession of their venerable ancestor, slighted his counsel, and to this day are remembered, if remembered by the Indians at all, for their departure from his noble example. Whilst the memory of the father is cherished with respect and veneration—whilst his character is continually brightening with the lapse of time, the memory of *his sons* has sunk into oblivion, and is only called up by the recollection of their infirmities.

The last personal interview William Penn ever had with the Indians of Pennsylvania, was just before his final departure from the province, in 1701. On that occasion, in a council held with the chiefs, sachems, and others of the Susquehanna and Shawanese tribes, he told them "that the assembly was then enacting a law,

according to their desire, to prevent their being abused by selling of *rum* amongst them; that he requested them to unite *all their endeavors*, and their *utmost exertions*, in *conjunction with those of the government*, to put the said law in execution."

If Senator Lumpkin had been aware of all the frauds practised upon the Seneca Indians, in the different stages of the concern, for the procurement of the Seneca treaty, we cannot believe he would have said, "that the treaty, now under consideration, is amongst the most *fair and honorable* transactions of the kind, which is to be found on our recorded history as a people." For, if this be true, then is *our* country one of the most *dishonorable* to be found on the "recorded history" of any "people,"—and then has the Senator, in the highest legislative department of the Union, made himself the instrument of proclaiming her dishonor to the world. But we are inclined to believe that, in common with many other members of the national Legislature, he has been influenced by statements void of truth, and artfully calculated to deceive: for, the "recorded history" of our own, or any other country, may safely be challenged to show a "transaction of the kind," more distinguishable for its atrocity.

To protect these Indians in the peaceable possession of their lands, the government of the United States is bound, not only by the obligations of truth and justice, but by its express contracts with them, to the performance of which its faith has been solemnly pledged. In the treaty sanctioned by Washington, during his administration as President of the United States, when the power of the northern Indians was such as to make it of great importance to be at peace with them, this pledge was given. That treaty was concluded with the Six Nations, at Canandaigua, Nov. 11th, 1794, Timothy Pickering acting as commissioner on behalf of the United States. It stipulated that, "with the view to remove from their minds all causes of complaint, and for the establishing a firm and permanent friendship with them, the United States will never claim their lands, nor disturb them, nor their Indian friends [the Tuscaroras] residing thereon and united with them, in the free use and enjoyment thereof; but the said reservations *shall remain theirs*, until they choose to sell the same to the people of the United States, who have the right to purchase."

Under the administration of Thomas Jefferson, the Seneca and

Onondaga Indians appealed to our government for its protection, in fulfilment of its contracts. This appeal was honorably met, and promptly attended to, and a proclamation, under the hand of General Henry Dearborn, and seal of the war office, bearing date March 17th, 1802, was issued, in which, among other things, it was declared, "that all lands claimed by and secured to the Seneca and Onondaga Indians, by treaty, convention, deed of conveyance, or reservation, lying and being within the said United States, *shall be and remain the property of the said Seneca and Onondaga Indians for ever*, unless they shall voluntarily relinquish the same. And all persons, citizens of the United States, are hereby strictly forbidden to disturb the said Indians in the quiet possession of these lands."

From all that has been said, and from the statements, and authentic documents, published in "the Case of the Seneca Indians illustrated," it appears

First.—That in the year 1837, with "the ostensible object" of purchasing "the Green Bay lands," (whilst "the real object," as Senator Sevier affirms, was, "to assist a dozen or so of land speculators to purchase of the New York Indians their New York lands,") the government was induced to appoint a commissioner, to make a treaty with those Indians.

Secondly.—That in pursuance of this appointment, a treaty was made, and laid before the Senate, purporting to have been executed *in council* "at Buffalo Creek, January 15, 1838, by Ransom H. Gillett, on the part of the United States, and the chiefs, headmen, and warriors of the several tribes of New York Indians." Appended to it were two deeds of conveyance, one from the Senecas, and one from the Tuscaroras, to the Ogden Land Company.

Thirdly.—That this treaty was obtained by bribery, and other unfair means, and was unanimously rejected by the Senate, and of course never was binding on either party.

Fourthly.—That the Senate, *ex parte*, formed another treaty, called "the amended treaty," which, with the two deeds of conveyance, was sent to the Indians, for their consideration; with a resolution, dated June 11th, 1838, providing, that the treaty should have no force or effect whatever, nor should it be understood that the Senate had assented to any of the contracts, or

deeds of conveyance, connected with it, until the same, with the amendments, was fully and fairly explained to each of the tribes or bands *in council;* nor until "*freely* and *voluntarily*" assented to by them " when thus consulted."

Fifthly.—That the conditions prescribed by the Senate, on which the treaty could alone have any " force or effect," were never complied with. Only 16 out of 81, ever signed it *in council*,--the Seneca "*tribe*" never assented to it, "*when consulted as aforesaid.*" More than one-half that did sign it *in council*, were corrupted by bribes. All the other signatures were either obtained *clandestinely, or forged;* or, they were the names of persons who were not, and *never had been chiefs.* Sixty-four chiefs and warriors in the same council, signed a protest against it; being a large majority of the whole. Thus this treaty was fairly rejected by the Senecas, and, of course, could have " no force or effect whatever."

Sixthly.—That under these circumstances, on the 21st January, 1839, the President returned the treaty to the Senate, " for its advice in relation to the *sufficiency of the assent* of the Senecas."

Seventhly.—That the treaty, being thus thrown back upon the Senate; after a full investigation, it was found not to have been sufficiently signed; and it was resolved to return it to the President, for further action in the case. It was accompanied with the following resolution, dated March 2d, 1839. " Resolved, that whenever the President of the United States, shall be satisfied that the assent of the Seneca tribe of Indians, has been given to ' the amended treaty,' of June 11th, 1838; with the New York Indians, *according to the true intent and meaning* of the resolution, of the Senate, of the 11th June, 1838, the Senate recommend, that the President make proclamation of the said treaty, and carry the same into effect."

Eighthly.—That, in the Eighth month (August) of that year, the President despatched the Secretary of War to the Seneca nation, where a council was held on the Cattaraugus reservation; but no further assent to the treaty was obtained, nor was there any thing done to advance the object of the Senate; on the contrary, a more decided opposition to the treaty was manifest, more

than sixteen-seventeenths of the whole nation being decidedly hostile to it.

Ninthly.—That, the President of the United States never was satisfied, that the assent of the Seneca nation had been obtained, according to the provision of the Senate; for, on the 13th of the First month, (January,) 1840, he again remitted the treaty to the Senate; and in his message on that occasion, explicitly declared, that the resolution of the Senate, of June 11th, 1838, did require that the assent of *each* of the *tribes* of Indians should be given *in council*,—that such assent had not been *so* given,—that no advance towards obtaining the assent of the *Seneca Indians*, to the amended treaty, *in council*, had been made;—and that such assent cannot now be obtained. As it regards the charge of *bribery*, he says,—"that improper means have been employed, to obtain the assent of the Seneca chiefs, there is every reason to believe: and I have not been able to satisfy myself, that I can, consistently with the resolution of the Senate, of the 2d of March, 1839, cause the treaty to be carried into effect, *in respect to the Seneca tribe.*"

Tenthly.—That, it thus is evident, "the amended treaty, made *ex parte* by the Senate, was rejected by the Senecas, the other contracting party,—was not satisfactory to the body which formed it, and finally, in an official communication, was condemned by the President of the United States, who is one of the branches of the treaty-making power, under the Constitution.

Eleventhly.—That, the treaty thus refused by the Indians,—rejected by the Senate,—and condemned by the President, was, notwithstanding, on the 25th day of the Third month, (March,) 1840, declared by the Senate to have been "satisfactorily acceded to, and approved by the said tribes; *the Seneca tribe included!*"

Twelfthly.—That this decision was made in the Senate, when only thirty-eight members were present, nineteen of whom voted against it; the question having been decided by the casting vote of the Vice President.

And lastly.—That this decision was *not* in accordance with the express provision of the Constitution of the United States, which declares the powers of the Senate, in relation to treaties, in the following words: "The President of the United States shall

have power, by and with the advice and consent of the Senate, to make treaties; provided, *two-thirds of the Senators present concur*."

And now, for the maintenance of the national faith, by the performance of our solemn contracts; for the sake of our good name, as an upright, honorable nation; for the love of mercy, in its exercise towards a weak and defenceless people, and that the blessing of Heaven, "to which no sorrow is added," may descend and rest on our beloved country; we cannot but hope, that when the true character of this treaty, as it regards *its origin, its object, the means by which it has been obtained, and its cruel tendency*, shall be fully understood, it may be promptly annulled by the authorities of the government.

We do not wish for such result because we have any desire to interfere with the just objects of the parties interested in the removal of the Indians. We have no interest in the concern opposed to the rights of any party. If the Senecas in the free exercise of their judgment were now prepared for a change of residence, *we* should not be found opposing their inclination. Until so prepared, we think they ought to be protected in their rights, and left at full liberty to pursue such measures as they may deem essential to their own happiness.

Of latter time much has been said of the general *policy* of removing the Indians beyond the Mississippi. On this point it is no part of our present business to express a sentiment. It is a subject upon which good men differ. But when either nations or individuals on *that* ground pursue any scheme violating the immutable principle of JUSTICE, the *policy* of the movement may well be doubted. The past history of our own country at various periods, and the experience of *the present day* emphatically teach us, that in the end *honesty* is *the best,—the cheapest,—the most economical rule of action.* If, in all our dealings with the aborigines, we had, as a nation, been governed and limited by this rule, we cannot doubt that thousands of valuable lives, and millions of the public treasure would have been saved to our country.

APPENDIX.

Some valuable documents in our possession, it is deemed proper to lay before the public, in an Appendix. By this means, also, some further illustration of facts, and of the positions taken up by us in our Review, will be presented to the reader, in the form of Notes.

NOTES.

Page 8. "One of the means used by the Land Company to veil from public view the true state of the case, is the use of *ambiguous terms*, or the false application of others, when they speak of what they call their *title* to the Indians' land."

"Ambiguous terms."—In the Letter dated New York, April 4, 1839,* from Tho. L. Ogden, Joseph Fellows, and others, begging the President of the United States to proclaim the treaty, they frequently style themselves the "*pre-emptive owners*" of the Seneca's land. The word "pre-emptive" appears to be newly coined to suit the purpose, as we do not find it in any English or American dictionary. "Pre-emption," a noun, occurs in them all; and is explained, "a right of buying before another," "a claim to buy or purchase before others." Now, a person having a *right* of pre-emption in relation to land, has a claim to purchase such land, in preference to others; and this is called a "pre-emption right," not a "pre-emptive *title*." He can have no *title* but by exercising his "right to buy or purchase."

An "owner" of land is one who has already bought it, or by other means has a title in it. The phrase, "pre-emptive owner" is therefore *ambiguous*, and absurd, as implying that a person has a right to purchase land which he already owns!

"The false application of others," occurs very frequently in the Company's writings. The mere *right to buy*, they term a "legal estate in fee simple." In other places they term that right "a title;" calling themselves "proprietors of the pre-emptive title!" See Bribery Contracts "Case," p. 189, &c.

A title, says Coke, is "the means whereby the *owner of lands* hath the just possession of his property." 1 Inst. 354. Blackstone says, "A right to property," or even "a right of possession" constitutes "a title." Comment., vol. 2, p. 195, &c. But the Ogden Company have neither the one nor the other. That the Indians have the "possessory right," is admitted by

* See Senate's Documents, 1840, page 289, et seq.

the Company ;—that the "property" is theirs, until they choose to relinquish the same, is beyond dispute.

Page 17. "It is believed that these lands when divided would sell for two, or perhaps three millions of dollars." Maris B. Pierce, the Seneca Chief, in his address, quoted p. 40, &c., says: "It is well known that those who are anxious to purchase our Reservations, calculate safely on fifteen dollars per acre, *for the poorest*, and up to *fifty and more* for the other qualities." Taking the medium between fifteen and fifty dollars per acre, and estimating the quantity at 19,000 acres, the value would be three millions, eight hundred and sixty-seven thousand dollars! But estimating the whole, at the price of *the poorest*, the value is one million, seven hundred and eighty-five thousand dollars! The consideration fraudulently put into the deed by the Ogden Company's agent, as before stated, is $202,000, which taken from the value of the whole, at the lowest rate, shows that the Indians were to receive *one million, five hundred and eighty-three thousand dollars*, less than the value at which *the poorest* of their land is estimated!

Page 20. "Every art has been tried to torture this document; it has been racked, and stretched, and twisted into every shape, out of its original one, to make it speak a language that would sanction the dark schemes of those whose object it was to remove the Indians." For a specimen of this *stretching and twisting*, see a letter from Commissioner Gillett to T. H. Crawford, dated Washington, Oct. 25, 1838, Senate's Documents, p. 34, 35, &c. to p. 40. And also a letter from R. H. Gillett, dated Dec. 25, 1838, to Gen. Dearborn, "Case" p. 110. These documents deserve particular attention, as showing the character of an agent of the government, who ought to have no other motive than to represent his government, justly and impartially.

Page 24. "Yet we have evidence that the commissioner threatened the Indians with the execution of the contracts, although the treaty should not be ratified."

"Threatened the Indians." In a letter from Big Kettle, and fifteen other chiefs, to Senator Prentiss, dated February 28, 1838, they say of Commissioner Gillett, "Once, during the council, one of us inquired, what will our father, the President, do to us if we refuse to make the treaty! His answer was, 'He will punish you as a father punishes his disobedient child, unless you do as he desires: he will turn your face where he wishes you to go, before he stops punishing you.' Then went on to threaten us that the laws of the state should be extended over us in punishment; and that the privileges which we now enjoy should be taken away from us: that we should lose our annuities, and lose our agent, and that these things should be given to the party which might consent to emigrate. Some of the less firm in mind among our chiefs and people believed and were intimidated.

"He said, also, that Congress were seeking to prevent any one from assisting us; and that, if any white person should give us advice, or in any way help us to retain our land in opposition to the will of the government, he should be punished with a fine of from one to two thousand dollars. Thus it seemed that we had no help left for us. Some of our chiefs were intimidated by this also, and thought we might as well submit: for he told us that Congress had

passed a law to this effect, and all the good people were agreed to it." "Case," p. 117. Much more of this nature will be found in the official documents,

Page 25. "They had also to stem the powerful torrent of government influence." See President's Message to the Senate, Documents 1840, page 1, et. seq. See also letter from T. H. Crawford to the Secretary of War, and one to R. H. Gillett, Idem. pp. 55, 67, 68. See also Sevier's speech, "Case," pp. 87, 88.

Page 33. "They have good farms, and are rapidly advancing in agricultural science." See Friends' Memorial to the President, "Case," p. 27.

As the Report to the Governor and Council of Massachusetts, several times referred to in this work, may not be in the possession of many of our readers, the following extracts from that Report are here inserted for reference, and further information.

Page 10, &c. "The deed of conveyance of the Seneca Reservations bears date January 15, 1838. It commences with a recital, that, at a treaty held under the authority of the United States, at Buffalo Creek in the County of Erie and State of New York, between the chiefs and headmen of the Seneca nation of Indians, *duly assembled in council, and representing and acting for the said nation*, on the one part, and Messrs. Ogden and Fellows on the other part, concerning the purchase of the right and claim of the said nation of Indians, in and to the lands within the State of New York remaining in their possession, Ransom H. Gillett, Esq., the Commissioner appointed by the President of the United States to attend and hold the said treaty, and also Josiah Trowbridge, Esq., the Superintendent on behalf of Massachusetts, were severally present at the said treaty, and that said chiefs and headmen, in behalf of said Seneca nation, agreed to sell and release to said Ogden and Fellows, all the right, title, and claim of said nation, of, in, and to said lands; it also avers that this deed of conveyance, or release, was read and explained to said parties, and mutually agreed to; after this recital follows the deed. It purports to be an indenture made between the chiefs and headmen of the Seneca nation "*duly assembled in council*," and acting for and in behalf of said nation, of the first part, and Messrs. Ogden and Fellows, of the second part:—The indenture witnesseth that the said chiefs and headmen of the Seneca nation of Indians, in consideration of $202,000 "to them in hand paid by the said Ogden and Fellows," the *receipt* whereof is acknowledged, grant, bargain, sell, release, and confirm to said Ogden and Fellows, their heirs, and assigns, the said four Reservations, giving the name and contents of each, as stated in said memorial of Ogden and Fellows, with the qualification of "more or less" to each, giving no boundaries, but adding to the description the words, "as the said several tracts of land have been heretofore reserved and are held and occupied by the said Seneca nation of Indians, or by individuals thereof,"—together with all and singular the rights, privileges, hereditaments, and appurtenances to each and every of the said tracts or parcels of land belonging or appertaining—and all the estate, right, title, interest, claim, and

demand of the said party of the first part, and of the said Seneca nation of Indians, of, in, and to the same, and to each and every part and parcel thereof; to hold the said premises to said Ogden and Fellows, their heirs and assigns, but as joint tenants, and not as tenants in common. This conveyance, at its close, purports to be an instrument of four parts, viz. :—one to be kept by the United States, one by the State of Massachusetts, one by the Seneca nation, and one by Messrs. Ogden and Fellows. The part held by Massachusetts, is not executed by Messrs. Ogden and Fellows, or either of them. It purports to be signed, sealed, and executed, by *forty-five* warriors and headmen, of whom nine subscribe their full names, thirty-four make their marks, and two have their marks made by others, as their agents.

This deed of conveyance bears even date with the treaty of Buffalo Creek, made between the United States and the Senecas, &c. viz. January 15, 1838. The deed and treaty are so intimately connected, that we must now state some of the contents, and a part of the history of the treaty. By the deed it would appear merely that the Seneca nation sold and conveyed their lands, and received $202,000 for them. But much more appears by the treaty. In that, the nations of New York Indians release all their interest in certain land at Green Bay, secured to or for them, by the Menominee treaty of 1832, excepting one tract thereof, occupied by certain New York Indians. This (to say the least) was immaterial so far as the Senecas were concerned, as they never accepted the lands at Green Bay.

By this treaty of Buffalo Creek, (January 15, 1838,) the United States set apart for the New York Indians a tract of country, situate directly west of the state of Missouri, as a permanent home for said Indians. The treaty contains general provisions for all the New York Indians, and special articles applicable to the several tribes. The 15th section applies to the Senecas. That article states that Ogden and Fellows, the assignees of the state of Massachusetts, have purchased of the Seneca nation their interest in certain lands, "*by a deed of conveyance, a duplicate of which is hereto annexed,*" and provides that the consideration for that purpose, viz. the $202,000 shall be paid to the *United States;* that $100,000 of it shall be invested in safe stocks for their use, "the *income* of which is to be paid to them *at their new homes* annually," and that the balance, ($102,000) should be paid to the owners of improvements on the Seneca lands sold to Ogden and Fellows, according to an appraisement to be made of those improvements; the owners of those improvements to receive their proportions of said appraisement, "on their severally relinquishing their respective possessions to Ogden and Fellows."

But this treaty (with which the conveyance to Ogden and Fellows was thus incorporated) secured to the Senecas other and valuable considerations for the sale of their land and for their emigration, many of which considerations were afterwards annulled or commuted for others, by the Senate of the United States, as will hereinafter be shown.

This treaty of the 15th January, 1838, purports to be signed on the part of the Senecas, by the same persons who signed the said deed of conveyance, in the same manner, and in the same order.

A supplementary article to this treaty of 15th January, 1838, was made with the St. Regis Indians, 13th February, 1838, which relates to those In-

dians only, but which is one of the subjects mentioned in the resolution of the Senate of the United States, to be referred to in a subsequent part of this report.

The treaty of 15th January, 1838, (in the form in which it was submitted by the President to the Senate,) has never been approved or ratified on the part of the United States. By that treaty sundry provisions were made in favor of the Indians, which were annulled, or commuted for others by the Senate of the United States (as we have before stated) when the treaty was under their consideration in June, 1838, viz.:—1st, the provision that the United States should give to the New York Indians a part of the Cherokee territory, (if the United States should acquire it,) in exchange for part of the land assigned to the New York Indians west of the state of Missouri;—2d, the provision that the United States should remove the New York Indians to their new homes;—3d, the provision that the United States should erect for the use of the respective tribes of New York Indians, at their new homes, Council-houses, Churches, School-houses, pay suitable teachers, &c., &c.;—4th, the provision that the United States, "taking a deep interest in the improvement of the Indians in useful knowledge," would set apart a permanent fund of $30,000, the income of which should be applied to maintain a literary institution among the Indians;—5th, the provision that the United States would indemnify the New York Indians against the depredations of other Indians at their "new homes;"—6th, the provision that the United States should have one of its agents to reside among the New York Indians at the west. All these provisions for the Indians, contained in the treaty, were annulled by the Senate of the United States.

The Senate (two-thirds of the Senators present concurring) having thus altered and amended the treaty of 15th January, 1838, introduced into it the following as the 15th article, viz.: "the United States hereby agree that they will appropriate the sum of $400,000, to be applied from time to time, under the direction of the President of the United States, in such proportions as may be most for the interest of said Indians, parties to said treaty, for the following purposes, to wit:—to aid them in removing to their new homes, and supporting themselves the first year after their removal; to encourage and assist them in education, and being taught to cultivate their lands; in erecting mills, and other necessary houses; in purchasing domestic animals, and farming utensils, and acquiring a knowledge of mechanic arts."

The Senate further resolved, (two-thirds of the Senators present concurring,) "that the Senate advise and consent to the ratification of the supplemental article to the treaty, (concluded at Buffalo Creek in the state of New York, January 15, 1838,) which was made at the Council-house of St. Regis, on the 13th day of February, 1838, *provided* the chiefs and headmen of the St. Regis Indians,—residing in New York, *will, in general council,* accept of, and adopt the aforesaid treaty,—as modified by the preceding resolution of ratification. Provided always, and be it further resolved, that this treaty shall have no force or effect whatever, as it relates to any of said tribes, nations, or bands of New York Indians, nor shall it be understood that the Senate have assented to any of the *contracts connected with it, until the same,* with the amendments herein proposed, is submitted and fully and fairly explained, by

a Commissioner of the United States, to each of said tribes, or bands, separately assembled in council, and they have given their free and voluntary assent thereto. And *if* one or more of said tribes or bands, *when consulted as aforesaid*, shall freely assent to said treaty as amended, *and to their contract connected therewith*, it shall be binding and obligatory upon those so assenting, although other or others of said bands or tribes may not give their assent, and thereby cease to be parties thereto. Provided further, if any portion or part of said Indians do not emigrate, the President shall retain a proper proportion of said sum of $400,000, and shall also deduct from the quantity of land allowed west of the Mississippi, such number of acres as will leave to each emigrant 320 acres only."

The fact that the United States did *not ratify* the treaty of 15th January, 1838, but materially altered it, and the views of the Senate as expressed in the last cited resolution, show that the Senate held any assent given by the Senecas to that treaty, to be wholly void,—and the deed of conveyance (or contract) connected therewith, to be also void,—unless that deed, and the treaty as amended, should be afterwards freely assented to by the Senecas. The same resolution shows that that assent was not to be asked until after a full and fair explanation of the amendments, &c., to the several tribes assembled in council. And the expressions used in the resolution in regard to the St. Regis Indians, as well as the other tribes, show that the Senate intended the assent of the Indians should be given *in council, and not out of council.*

The United States Commissioner, Mr. Gillett, submitted the amended treaty to the New York Indians, all of whom, excepting the Senecas, assented to it. In August, 1838, he submitted it to the Senecas assembled in council. Gen. H. A. S. Dearborn was present, as the agent of Massachusetts. To induce the chiefs and headmen to sign the amended treaty, Mr. Gillett assured them that the United States officer presiding over the Indian Department considered the contract for the sale of their lands to Ogden and Fellows complete, and that it might be carried into effect, whether the Senecas assented to the amended treaty or not. Gen. Dearborn very properly stated in reply, that the governor of Massachusetts considered that contract void, unless the treaty, as amended, received the assent of the Senecas. As a new inducement to sign the amended treaty, the Ogden Company (whom Messrs. Ogden and Fellows represent) offered, on 28th September, 1838, life leases, free of rent, to those Senecas who should wish to remain on their New York lands, "and who should assent to the *treaty to the lands* respectively held and occupied by them as farming lands." One of the chiefs proposed in the council, that those opposed to the treaty should sign a protest against it, in presence of Messrs. Gillett and Dearborn. Mr. Gillett, the United States Commissioner, refused to authenticate such protest, or to keep the council open for its reception. The protest was signed in presence of Gen. Dearborn, by 63 chiefs and headmen, of whom 48 are said to be admitted chiefs, being more than half of the whole number of chiefs, whether we assume the whole number to be as stated by the friends or opponents of the treaty. Only sixteen chiefs signed the amended treaty in open council. Mr. Gillett, after the adjournment of the council, and at his own room and at private houses, (out of council,) obtained fifteen more signatures to the amended treaty,—making, in all, thirty-one signatures. No

more being disposed to sign, the council was adjourned to November 15, 1838. Five more signatures were sent to Washington, but the Department rejected them. A printed copy of the amended treaty, bearing the signatures of thirty-five chiefs and one hundred and seventeen warriors, had been received by the United States Commissioner; but the Department rejected it, because it bears date *before* the assent in council, and before the amended treaty had been explained in council, pursuant to the resolution of the United States Senate. This is shown by the letter of T. H. Crawford to the Secretary of War, dated October 29, 1838, saying that on that day only sixteen chiefs and headmen had assented to the amended treaty in council, and fifteen out of council,—being, in the whole, only *thirty-one*.

On 30th October, 1838, Mr. Gillett, the United States Commissioner, was directed to return to the Senecas, and procure the assent of a majority of all their chiefs. He returned accordingly, but the council, (adjourned to 15th November, 1838,) was never held. Mr. Gillett obtained the signatures of ten more chiefs and headmen, wherever he could find them out of council, making, in the whole, forty-one. By Mr. Crawford's letter of 15th January, 1839, it appears that two other signatures were obtained afterwards, one of which he rejected; and the other was made by attorney, after the amended treaty was returned to Washington. And such is all the assent that has ever been obtained from the Senecas to the amended treaty, viz., sixteen signatures in council, and twenty-five or twenty-six out of council. In a letter of 11th January, 1839, Mr. Gillett (on the authority of Judge Stryker,) fixes the whole number of Seneca chiefs at eighty-one, on the 29th of March, 1838. Three of them dying afterwards, their places were filled (as the Senecas say, illegally,) by three persons friendly to emigration.

The amended treaty, in this state, was submitted to the President, but he (by advice of the Secretary of War) submitted it to the Senate, on the 21st of January, 1839, for their advice. Therefore it could not have been plain to the President or Secretary, that the amended treaty had received the assent of the Senecas, pursuant to the Senate's resolution of June, 1838. And it does seem that the Senate did not consider that any such assent had been given;—for the Senate resolved, March 2, 1839, "that whenever the President of the United States shall be satisfied that the assent of the Seneca tribe of Indians has been given to the amended treaty of June 11, 1838, with the New York Indians, according to the true intent and meaning of the resolution of the Senate of the 11th June, 1838, the Senate recommends that the President make proclamation of said treaty, and carry the same into effect."

In August, 1839, the Secretary of War, with Gen. Dearborn, met the Senecas in Council. What progress was then made in obtaining the assent of the Senecas to the amended treaty is shown by the President's Message to the Senate of the 14th of January, 1840, again transmitting the amended treaty;—in which message he says, "no advance towards obtaining the assent of the Senecas to the amended treaty, in Council, was made,—nor *can* a majority of them in Council, be now obtained."

Still this amended treaty has been ratified on the part of the United States, as shown by a Resolve of the Senate of the United States, passed March 25,

1840, and by the proclamation of the President, bearing the date April 4, 1840. We are informed that this Resolve of the Senate was adopted by a majority of only one, and contrary to the above intimation of the opinion of the President, and notwithstanding the report of the Committee on Indian Affairs, that the amended treaty had not received the assent of the Seneca nation.

The documents shown to us, represent the amended treaty to be signed by only 41 Senecas,—though we find the printed copy of it purports to be signed by 43. Of them, 9 write their names at length,—34 make their marks,—and 2 make their marks by agents. The rejected signature, and the signature given by attorney at Washington, account for the difference between 41 and 43.

The memorialists and the delegations who have appeared before the Committee, now object both to the treaty and to the alleged conveyance, for the following reasons:

1st,—They say there are 91 lawful chiefs in the Seneca nation, and that the amended treaty and the deed, whether signed by 41 or 43, have not been assented to in any form by a majority of 91, viz., 46 chiefs and headmen.

2d,—Of those whose names are on that treaty and deed, the Senecas object that 6 of them are not lawful chiefs,—and that at least eleven of their chiefs were bribed by the agents of the Ogden Company,—that the contracts of bribery are in writing, and they exhibit the contracts, by which it appears that at least 8 chiefs, (who had been bribed before the date of the deed and first treaty,) signed the deed and amended treaty. If this be true, and the signatures of the bribed chiefs be rejected, the deed and amended treaty, would each have less than a majority of the chiefs, whether their whole number be 91, or 81, or 76. In addition to these cases, other instances of bribery are alleged, in proof of which, the affidavits of the persons bribed are exhibited. On this point, the Senecas also urge the declaration of the President of the United States, who said in his communication to the Senate, dated January 13, 1840,—"That improper means have been employed to obtain the assent of the Seneca chiefs, there is every reason to believe; and I have not been able to satisfy myself, that I can, consistently with the resolution of the Senate of the 2d March, 1839, cause the treaty to be carried into effect, with regard to the Seneca tribe."

3d,—It is said that six others of those alleged to have signed, make oath that they never signed their names or made their marks to the amended treaty, knowing what they did at the time.

4th,—Only 16 signatures to the amended treaty were obtained in open Council; and the Senecas declare that no treaty with them can be valid unless made and signed in open Council;—that the resolution of the Senate required their assent to the amended treaty, to be given in open Council;—that this intention and requisition of the Senate, is express as to the St. Regis Indians, and equally clear in regard to the Senecas;—that only 16 Seneca chiefs having so assented, the treaty has not received the assent of the Seneca nation;—that the chiefs can act, (like all other legislators,) only, in Legislative Council,—and that out of such Council, they are powerless. To show that they are correct in these opinions and conclusions, they refer

to the letter of Mr. Crawford to the Secretary of War, dated 29th October, 1838, in which he says, "Perhaps too, it was intended by the Senate, that they," (the Senecas,) "should assent in Council." They also refer to Gov. Everett's opinion, viz.—"The treaty making power is granted by the constitution, in general terms. No modification of its exercise in reference to Indian tribes are recognized. As it would certainly be unconstitutional for the President of the United States to attempt to treat with individual members of any foreign State or Government, (not duly authorised to represent the entire body,) or to attempt to obtain the ratification of a treaty, by means of the assent of the individuals of the Senate, not duly assembled and acting as such,—I remain of opinion, that the constitutionality of attempting to obtain the assent of individual Indian chiefs to the amended treaty, in the manner in question, is doubtful." The Senecas also refer to the message of the President to the Senate, on 13th *January*, 1840, in which he says, "the provision of the Resolution of the Senate of 11th June, 1838, *requiring* the assent of each of said tribes to the amended treaty to be given *in Council*, and which was also made a *condition precedent* to the recommendation to me of the 2d March, 1839, to carry the same into effect, has not been complied with, as it respects the Seneca tribe." They also refer to the same opinion as expressed by the Committee on Indian Affairs. And to all this they add, that both the treaty and deed falsely purport to have been made in Council. And the Senecas, and the Chairman of the Committee on Indian Affairs, agree in the declaration, that all treaties ever made with the Indian tribes, have been made in open Council, or by delegates duly authorized.

5th,—The Senecas contend, that the amended treaty has not received the requisite assent of the Senate, viz., two-thirds of the Senators present concurring,—but was assented to by a majority of *only one*.

6th,—That the deed and first treaty constituted one contract, and that the first treaty being nugatory, the deed thereby became void, and must remain so until both the deed and amended treaty shall be confirmed and assented to by the Seneca nation, in a fair and legal manner. The Senecas say the Ogden Company admitted that the deed required confirmation after the Senate amended the treaty, as shown by the Ogden Company's offer of life-leases to all those who should prefer not to emigrate, and "who assent to the *treaty to the lands* respectively held and occupied by them as farming lands."

7th,—That the deed and amended treaty are, in fact, connected together, and are to be considered as one contract,—both equally needing ratification on the part of the Seneca nation;—that all the considerations coming to the Senecas, are dependent on the treaty;—that the 10th article of the amended treaty expressly treats the deed as part of that treaty, and as being annexed thereto;—that the said 10th article would not be intelligible without the deed;—and that the $202,000 purchase money is not to be paid to the Seneca nation, except as provided in that article;—that the amended treaty, not having received the assent of a majority of their chiefs and headmen in council, nor the constitutional assent of the Senate, is void, and that the deed, as part of it, is also void.

8th,—The Senecas also refer to a part of the above cited resolution of the Senate, viz.,—"if one or more of said tribes or bands, when consulted as afore-

said, (viz., in general council,) shall freely assent to said treaty as amended, *and to their contract connected therewith*, it shall be binding and obligatory upon them so assenting." Now the Senecas say the only *contract* here referred to, is the said deed of conveyance to Ogden and Fellows;—that since this resolution of the Senate, the Senecas have never assented to that deed or contract; and that for this reason also, the deed is void.

9th,—The Senecas also contend, that the deed and treaty, forming but one contract or instrument, both of them required the assent of Massachusetts.

10th,—The Senecas also say, that several of those whose names appear on these instruments, are not chiefs, nor entitled to represent their nation.

These are the principal objections urged against the deed and treaty,—and, as probably three-fourths of the whole Seneca nation are opposed to emigration, and to the sale of their lands, these objections are pressed with great feeling and bitterness.

Indeed, we have no doubt that very "improper means" have been used to obtain the assent of the Senecas to the deed and treaty. And this opinion has also been expressed by the President of the United States,—by the Chairman of the Committee on Indian Affairs,—and by the Society of Friends. Neither can be supposed to have any interest to mislead their judgment,—and each has had every opportunity for examining and understanding this subject thoroughly.

If the governor and council of Massachusetts, in 1839, had known all that had occurred in this unhappy business, even when the deed was presented for their approbation, we are confident they would not have approved it. But they did not know then that a very large majority of the Seneca nation was strongly opposed to a sale of their lands, nor that the signatures of several of their chiefs had been obtained by bribery. Mr. Trowbridge was entrusted with the duties of agent of this commonwealth; but it does not appear that he ever reported to this department a copy of the treaty, nor any information of its provisions. Had he done so, or had this department known the state of feeling among the Senecas, or could they have known that a treaty, forming an essential *part of the contract* for the purchase and sale of the lands, had been made, but would not be ratified by the United States, they would not have approved the deed,—certainly not unconditionally. And if they had known the provisions of the treaty, and their essential connection with the deed, they never could have imagined it *possible* that the Ogden Company would insist on the sufficiency of the deed, if the United States government should reject the treaty, or if the treaty should be found not to have received the assent of the Seneca nation.

With all the information we possess at this time, Massachusetts would not now approve that deed.

It is also stated, that Congress has made no appropriation for carrying into effect this treaty; and it may well refuse to do so, if satisfied that the deed and treaty have been obtained by deception practised on the United States, on this commonwealth, and on the Senecas. Whichever course may be pursued, we may expect that those who represent this state, the duly constituted friend and protector of the Seneca nation, will strenuously endeavor to cause justice to be done to them.

The committee will give no opinion whether it is, or is not for the interest and happiness of the Senecas to abandon their lands and improvements in New York, and retire to the west of the Mississippi. A very large majority of them believe it is not for their interest and happiness to do so; and, in a matter affecting themselves only, they should be permitted to *decide for themselves.*

By order of the Committee,

JOHN R. ADAN, *Chairman.*

Council Chamber, Nov. 21, 1840.

COMMONWEALTH OF MASSACHUSETTS.

NOVEMBER 21, 1840.

This Report is accepted by the Executive Council, and is approved by His Excellency, the Governor.

JOHN P. BIGELOW,
Secretary of the Commonwealth.

As a further illustration of the case of the Seneca Indians in the state of New York, we insert the following memorials, presented to the President of the United States in the Sixth month (June) of the present year.

A Memorial of the Seneca Indians to the President of the United States.

The undersigned CHIEFS of the Seneca nation of Indians residing in the western parts of New York, would respectfully call your attention to the peculiar circumstances of our relation to the government and people of the United States. It is well known that, by former treaties, and by Presidents Washington and Jefferson, the full enjoyment of our rights and privileges, within the territories of the United States, the protection of the government over our persons and property, and the right of our soil, within certain defined limits, was guaranteed to us for ever. We have strictly and, so far as we are able to judge, honorably fulfilled, on our part, the conditions of those treaties. But an attempt has been made to deprive us of the advantages therein secured to us, by forcing upon us, against our will, a new treaty, requiring us to emigrate beyond the Mississippi.

From the beginning of the negociations, a very large majority, at least *fourteen-fifteenths* of the Seneca nation, have been opposed to this new treaty, and still remain so. We have, however, sought to carry on our opposition simply by making known to the government of the United States the facts in the case, relying on the justice and integrity of the government to deliver us from the evil sought to be inflicted on us. This we were enabled to do so effectually that the Senate's Committee on Indian affairs, after a patient and thorough investigation, pronounced the treaty fraudulent, and recommended its rejection. The President also distinctly informed the Senate that "no inducement could prevail on the majority of our chiefs to give their assent to

it *in council*, and that there was too much reason for believing "that improper measures had been employed to effect it." Still, notwithstanding these things, the question of ratification having been taken in the absence of many of the Senators, was decided by the casting vote of the Vice President, Johnson, in the affirmative; and President Van Buren, although he had a little before informed the Senate of its injustice, immediately proclaimed it as the law of the land, notwithstanding the constitution of the United States requires the vote of *two-thirds* of the Senators present for the ratification of any treaty during the session of Congress.

We have the opinion of many distinguished jurists, and some of them eminent Senators, that the ratification was in direct violation of the constitution, as well as of the principles established by the government for treating with Indian nations. Besides, the Governor and Council of Massachusetts, a sort of third party, if not to the treaty, at least to the deed of sale of our lands, connected with it, have, after a minute investigation, unanimously reported the whole proceeding to be unjust and fraudulent.

Many members of the House of Representatives have also expressed similar opinions, and assured us of their desire that the whole subject might undergo a thorough and careful revision, and that the vote authorizing the President to proclaim the treaty, might be reconsidered in the Senate.

A large number of citizens of western New York, and many of our friends in other places, impelled by regard for justice, have petitioned Congress not to make any appropriation to carry the treaty into effect, until a re-investigation should be made by the Senate; and we are encouraged by the fact, that wherever our wrongs are understood by the people of the United States, the kindest sympathy is manifested in our behalf.

At the opening of the last session of Congress, a memorial was presented to Mr. Van Buren, requesting him to bring the subject before the Senate for reconsideration, but he utterly refused to comply with our request. A delegation of our chiefs waited on your lamented predecessor soon after his inauguration, and others of our friends recommended our case to his notice; and we received from him assurances that, at the proper time, the subject should come up for reconsideration. God, in his inscrutable but righteous providence, has removed him, at the very commencement of those efforts at reform which lay near his heart, and which the voice of your great nation so imperatively demanded, and now our hopes of redress hang, under God, upon him on whom devolve the arduous duties and responsibilities from which he was so early and so suddenly released.

We are ignorant of your views respecting our case. Indeed, we know not that it has ever been properly presented to your notice; we have, therefore, assembled in council, and resolved to address you this memorial, which we have requested the agent of the War Department, Griffith M. Cooper, to present to you, with the respects of the Seneca nation.

We most earnestly and respectfully request you to present the subject to the Senate, at the earliest opportunity, for the purpose of obtaining a reconsideration of the resolution authorizing the President to proclaim the treaty.

We ask this for the following, among other reasons:—

1st. As already stated, we are informed by some of the most distinguished

men in the country, and believe that that act of the Senate was unconstitutional,

2d. The amended treaty has never been lawfully ratified by the constituted authorities of the Seneca nation, only sixteen out of more than eighty chiefs having signed their assent in open council, while more than sixty signed their dissent and protest before they left the council house.

3d. More than fourteen-fifteenths of our people are, and always have been, opposed to the sale of our lands.

4th. Improper and very corrupt means have been employed to obtain the assent of our chiefs. Clandestine manœuvering, threats, liquor, bribes, misrepresentations, the withholding our annuities, or appropriating them without our consent or knowledge to the purposes of the emigrating party, were some of the means used for affecting their designs against us.

5th. When, by the use of such means, it was found impossible to eke out a majority, even though those operated on were allowed to sign in taverns, and in the darkness of midnight, our people, and the government of the United States, were imposed upon by the clandestine attempt to create new chiefs, at a private house in Buffalo city, and, on the strength of this mock election, the signatures of these men were appended to the assent to the amended treaty, and constituted the pretence for a majority, on which the Senate voted the proclamation of the treaty.

6th. Because it will be the destruction of our people if forced upon us; notwithstanding the liberality of its provisions, it will throw us back again into a state of barbarism from which we have but too lately emerged. It will prevent us for a generation at least from taking the rank of citizens of the United States. It will exchange the influences of civilization and Christianity by which we are now surrounded for the contagious example of those more barbarous than ourselves, and of the border settlers among the whites. It will place us in a country which, without great previous expense, cannot be made to maintain a civilized people, and in a climate which has heretofore proved fatal to a large proportion of those Indians with whom we have been acquainted, who have emigrated there.

7th. Because we have a claim upon the government, by virtue of former treaties, for protection from such evils, and that claim we have never forfeited by unfriendly or injurious conduct. We have fought in common with your own soldiers, and shed our blood for the United States; and, from our youth, have loved the free republican institutions of your country. We were born within your limits, and, though called savages by those who would dispossess us, we feel this moment a vastly deeper interest in every thing which concerns the welfare of the country than the hosts of foreigners, who, with all their imported notions of government and religion, have so easily become naturalized and obtained the rank and appellation of citizens. From our intercourse with such men, we fear they bear the name in many instances without the feeling of citizens. We imbibed that feeling with our earliest breath, and yet we must be driven off beyond the limits of civilization, because we lack the name.

We deprecate such a doom. We have compared our own condition with that of our kindred, in some cases the members of our families, residing in a

neighboring province. The land is fertile there. Our friends there are numerous. Our language is correctly spoken there, and it would seem that by casting our lot amongst them we might be happy. But the spirit of improvement, the genius of your free institutions, the energy of your republican government are wanting there, and we should deplore the stern necessity which would compel us to seek a home across the river. Still, it would be far preferable to emigrating beyond that distant river, where, habituated as we are to a more northern climate, death or ills which would embitter the richest inheritance, would be our certain portion. While the rights guaranteed to us by solemn treaties would secure us from both these alternatives, we look respectfully but confidently to the head of the United States for the strict fulfilment of the terms of those treaties.

8th. Because we never owned the lands in Ouisconsin pretended to be conveyed in that treaty to the United States, but have always told the government we have no interest or concern in it whatever; and we believe it unjust to the people of the United States to pay for that land twice, and devote so large a sum of money, and so much of the public domain, when we have in fact no claim upon government for any thing at all on the score of these lands.

9th. We ask for the speedy reconsideration of the subject, because the company who pretend to claim under the treaty, by their agents and commissioners, are constantly committing trespasses upon our lands, and carry off our timber, stone, wood, &c., and converting them to their own use, notwithstanding they were expressly forbidden by a special messenger from the War Department to take any such action under the treaty till the expiration of five years, in which we were to remove, should give them possession. Their conduct is in many cases exceedingly vexatious, and could not be borne, did we not wait with confidence for the redress which we expect from the hands of government. If that redress should be long delayed, they will rob us of the most valuable part of our timber, and we exceedingly fear that we should not be able, by legal process, even though it should terminate in our favor, to recover the value of the property they are destroying.

For these and other reasons which would protract our communication to an unwarrantable length, we earnestly and respectfully pray you to lay our case before the Senate without delay. We ask you to do this at the extra session, although there may not be time to act upon it, because we suppose that if the treaty shall be returned to the Senate, the company will be under the necessity of suspending their depredations upon us until the question is decided, so that the sooner you shall be pleased to comply with our request, the sooner and the more effectually will you extend to us the protection promised by the former treaties, to which we have alluded.

We will only add that we have heard a rumor that the Ogden Company have recently made arrangements with the government for the payment of the consideration money of the treaty, and the money for our improvements. We hope it will prove that this report is without foundation, and we most sincerely entreat your Excellency not to make any arrangement which will in any way sanction or give validity to the pretended treaty, or any of the contracts connected with it, until the Senate shall have had an opportunity for acting

again upon the subject. Meanwhile we shall be obliged by your communicating to us as much information as you may deem proper respecting the course you will pursue, as we wish to send a delegation to Washington city whenever any disposal is to be made of the subject, or any action taken upon our case.

With very great respect,

Your obedient servants.

The foregoing memorial was signed by eighty-six chiefs and headmen of the several Seneca Reservations, and was, on their behalf, presented to the President of the United States on the 8th day of the Sixth month, (June,) 1841.

To the President of the United States.

The memorial of the Committees of the four yearly meetings of Friends of Genesee, New York, Philadelphia and Baltimore, appointed by those meetings on Indian concerns, respectfully represents,—

That during the last session of Congress, the said committees appealed to the President of the United States, and to both branches of the National Legislature on behalf of the Seneca Indians in the State of New York. The distressed situation of that people induces us again to appeal to the Government of our country for their relief.

A treaty with these Indians, said to have been concluded at Buffalo Creek, on the 15th of January, 1838, by Ransom H. Gillett, a commissioner on the part of the United States, and the chiefs, headmen, and warriors of the several tribes of New York Indians, assembled in Council, was laid before the Senate in the early part of that year, and by that body referred to its Committee on Indian affairs. It was thoroughly examined by that committee, and unanimously rejected.

The Committee then modelled another treaty, since called "the amended treaty;" and the Senate, to guard against future frauds, adopted a resolution, dated June 11, 1838, in which they say, "the treaty shall have no force or effect whatever, as it relates to any of the said tribes, nations, or bands of New York Indians, nor shall it be understood that the Senate have assented to any of the contracts, (meaning the Deeds of Conveyance,) connected with it, until the same, with the amendments herein proposed, is submitted, and fully, and fairly explained by a Commissioner of the United States, to each of said tribes or bands, separately assembled in Council, and they have given their free and voluntary assent thereto. And if one or more of said tribes or bands, when consulted as aforesaid, shall freely assent to said treaty as amended, and to their contract (or Deed of Conveyance) connected therewith, it shall be binding and obligatory, &c.

With the conditions thus plainly expressed by the Senate, the commis-

sioner appointed on this occasion, did but partially comply: those of the most importance to the Indians were wholly disregarded.

In the summer of 1838, the commissioner held a Council with the Seneca Indians, at Buffalo Creek; the treaty was explained, and after a long and protracted session of more than forty days, giving full time for deliberation, the treaty was rejected by an overwhelming majority of the chiefs; sixteen only, being in favor of it, and more than sixty against it.

We will not, on the present occasion, describe the clandestine manner in which the commissioner afterwards proceeded to obtain signatures to the treaty, in wigwams, taverns, and private houses; nor go into an exposition of the *bribery, threats, misrepresentations*, and other corrupt means used to procure the assent of the Seneca Chiefs to that instrument. Documents of an authentic character in the Indian Department at Washington, or in possession of the undersigned, will amply illustrate these charges, and prove their truth. It will suffice at present, to say, that with all these means, a majority of the chiefs never were induced to sign it. Out of eighty-one chiefs, acknowledged as such, by both parties, only sixteen put their names to it *in Council*, and thirteen afterwards; making in the whole, twenty-nine. The other signatures were the names of Indians, who either were not chiefs, or who never signed the assent, or authorised others to sign on their behalf.

The treaty thus executed, was again sent to the Senate. That body, after hearing testimony on both sides of the question, and not being satisfied of the validity of its execution, returned it to the President, with a Resolution dated March 2d, 1839, stating, that whenever the President should be satisfied that the assent of the Seneca tribe of Indians had been given to the amended treaty, according to the true intent and meaning of the Resolution of the Senate of June 11, 1838, "the Senate recommends that the President make proclamation of said treaty, and carry the same into effect."

In the summer of 1839, the President, in order to obtain satisfaction on the subject, despatched the Secretary of War to the Seneca nation. A Council was called, and held at Cattaraugus, but nothing was done calculated to satisfy the President, or remove his doubts. On the contrary, a more decided opposition to the treaty and its objects, was manifested by the Indians, in consequence of which, the President declined to use the power conferred on him, to proclaim the treaty, and on the 13th of the First month, (January,) 1840, returned it to the Senate. In his message on that occasion, he very distinctly declared that the Resolution of the Senate of the 11th of June, 1838, did require that the assent of the Indians to the amended treaty, should be given *in Council*,—that such assent had not been so given,—that no advance towards obtaining it *in Council* had been made, and that the assent of a majority of them in Council could not be obtained. As it regards the charge of BRIBERY, the President says "that *improper means* have been employed to obtain the assent of the Seneca chiefs, *there is every reason to believe*, and I have not been able to satisfy myself that I can, consistently with the Resolution of the Senate of the 2d of March, 1839, cause the treaty to be carried into effect."

Under this impression, the President returned the amended treaty to the

Senate. It was sent back because it had not been executed according to the Conditions which had been presented by the Senate itself. Notwithstanding these circumstances, that body, by a Resolution dated March 25, 1840, declared that "in the opinion of the Senate, the treaty with the Seneca Indians had been satisfactorily acceded to," and that "the President is authorised to proclaim it as in full force and operation." The vote on this resolution was taken when many of the members were absent. On the final question being put, it appeared that the Senate was equally divided, nineteen voting in favor, and nineteen against the ratification. The question was settled by *the casting vote* of the Vice President in its favor.

Since this act of the Senate, circumstances have occurred, confirming the unfavorable views we had taken of that treaty, and the means by which the parties interested in driving the Indians from their lands, had taken to secure their object. The Government of Massachusetts, in the compact between that state, and the State of New York, made in the year 1786, relating to the pre-emptive right to Indian lands, in the latter state, was vested with a supervisory control over all future sales of these lands, to be made by the Six Nations. During the past year, the Governor and Council of Massachusetts by Memorials from the Seneca Indians, and from the bodies we represent, were induced to take up the subject. A committee of the Council was appointed, who after a close and searching investigation of the circumstances relating to the origin, progress, and alleged execution of the treaty, and "the Contracts" or Deeds of Conveyance connected with it, made a detailed and able Report on the subject, which has been adopted by the Council, and approved by the Governor. In that Report they say: "*If the Governor and Council of Massachusetts, in* 1839, *had known all that had occurred in this unhappy business, even when the Deed was presented for their approbation, we are confident they would not have approved it. But they did not then know that a very large majority of the Seneca nation was strongly opposed to a sale of their lands; nor that the signatures of several of the chiefs had been obtained by* BRIBERY." We herewith present to the President a copy of that Report.

We do solemnly believe that a just regard to the honor and good faith of the country requires a reconsideration of this treaty, by the constituted authorities of the government. In them we hope there is a power to prevent future injuries, and to redress the wrongs already inflicted on an inoffensive and suffering people. And although for the performance of a plain act of justice, a *precedent* ought not to be deemed requisite, yet, for the course we now respectfully suggest, a very clear precedent is, as we understand, to be found in the recent acts of our own government. During the administration of President Monroe a treaty with the Creek nation, said to have been made at "the Indian Springs," was submitted to the Senate, professing to have been duly and fairly executed. Under this aspect of the concern it was ratified by that branch of the treaty making power, and duly proclaimed by the President as the law of the land. Subsequently it was discovered to have been obtained by fraud and executed by only a minority of the chiefs; in both these respects resembling the treaty, to which we would now draw the attention of the government. Upon being satisfied of

these facts, President Adams, at the succeeding session of the Legislature, returned it to the Senate with his views of its character, whereupon it was declared null and void.

In addition to the reasons already suggested for pursuing a similar course on the present occasion, it is deemed proper to state to the President, that in the opinion of many distinguished legal characters, the ratification of the Seneca treaty by the Senate, in manner aforesaid, was not in conformity with the requisitions of the Constitution, which seems expressly to require the concurrence of *two-thirds* of the members present to make a treaty valid. In case of the Seneca treaty, as we have before stated, the Senate was equally divided, and it required the *casting vote* of the Vice President to decide the question.

We, therefore, cannot but hope that under the present administration of the government, coming to the consideration of the question free from any former bias, the Seneca nation may find that justice, which has hitherto been withheld from them, and our beloved country preserved from a stain on its character which every upright and honorable citizen must sincerely deprecate.

Signed on behalf of said Committees,

BENJ. FERRIS, *Clerk.*

Washington, Sixth mo. 8th, 1841.

In pages 32, 33 of this Review we have said, "The state of New York has treated them [the New York Indians] with a liberality and kindness which history will record to her lasting honor." In illustration of this fact, we here present the reader with a letter from Governor Seward, the present Executive, of the state of New York to one of his correspondents. Coming from the head of the state, in which those Indians are located, and more interested in the case than any other in the Union, it claims the highest regard, not only on account of the official character of the writer, but of the just and truly Christian sentiments it inculcates—sentiments worthy of our best statesmen in the most palmy days of the republic.

Albany, June 15th, 1841.

Dear Sir:—Your letter of May 20th has been received. You ask my opinion concerning the treaty which has been made by the United States with the Seneca Indians, and you observe that it is important for those Indians to show that their removal is against the decided wishes of fifteen-sixteenths of the nation, and that it is not called for by the executive of this state, by the legislature, or by the well disposed and humane people of the western counties.

The history of the several Indian nations which have dwelt within our borders shows many coincidences of painful interest. Each nation has, in its turn, been surrounded and crowded by white men. White men have always wanted more room while an Indian Reservation remained; and the Indians

have therefore been obliged to contract their hunting grounds. Indians have been ignorant and confiding, and white men shrewd and sagacious; Indians have been recklesss of the value of property, and have always found avaricious white men among their neighbors. White men have sold intoxicating liquors, and Indians have too often surrendered themselves to drunkenness. Indians have generally neglected, if they have not always despised agriculture, and white men have suffered inconvenience from the neglected condition of the Indian lands. White men have coveted those neglected lands, and the community has been benefited in consequence of the acquisition. The effect is, that we have now amongst us only some wasting remnants of half a dozen of the Indian nations. Yet each of these nations resisted, for a time, propositions for their removal strenuously, and with apparent unanimity. Each has in its turn divided upon the question of removal. The weak and improvident have been wrought upon to increase the numbers of those disposed to sell their lands, while philanthropic efforts have seldom been wanting to fortify the domestic party in their resistance.

I do not know that the disproportion of the two parties among the Senecas is so great as you have stated. I must refer you on that head to other sources of information. Neither should I speak candidly if I said that the people of the western counties did not desire such a change in the condition of the Senecas, as would bring their lands into cultivation, and render them tributary to the aggregate wealth and general improvement of the state. Such I must add is my own wish. The legislature has not spoken on the subject, but its concurrence in the same vein might be inferred from the general policy which the state has pursued. Nevertheless there is nothing which would be more gratifying to the people of this state, and certainly there is, on my own part, no desire affecting the Indians, more sincere than to see the remnants of the Indian tribes forsake entirely the manners and customs of their forefathers, and adopt those of civilized life. The signal disappointment of such philanthropic hopes in regard to the other tribes of Indians, has produced a general distrust of any better fate for the Senecas, while the contiguity of that people to a great city, exposes them, in an especial degree, to the frauds, and introduces among them the vices, of the depraved men of our own race. Very many who entertain this distrust, and deplore the wretchedness and degradation of a portion of the Senecas, are of opinion that it would be wise and prudent for them to relinquish their lands at a fair valuation and seek a new home in the far west.

But no humane or enlightened citizen can wish to see the expulsion of the Senecas by force or fraud. It is a fearful thing to uproot a whole people, and send them, regardless of their own views of their rights, interests and welfare, their feelings and affections, into a distant and desolate region. It is peculiarly so, when a large portion of them, relying upon the protection of the laws, and the justice of their white brethren, have become cultivators of the soil, and of the affections and habits of civilized life. Such is the condition of a large portion of the Senecas.

Injustice to the Indians is repugnant alike to the settled policy of this state, and the feelings and sentiments of its people. This state has endeavored steadily to pursue a benign policy towards them. We have suffered every

tribe to remain unmolested, and have ever discouraged the desire of small factions among them to effect a sale of their lands, without the general consent of the tribe. We have left the Indians to debate and consider the subject without our interference. When a portion of a tribe has made arrangements to purchase lands elsewhere, and obtained the consent of the whole nation to a partition, we have bought that portion of the lands equitably belonging to those who had determined to emigrate, requiring, in all cases, the consent of the whole tribe to such partial sales. During the last few years, the state, instead of purchasing for its own advantage, has taken the title of the Indians, sold the lands as their trustee, and accounted to them for the whole proceeds of the subsequent sales in fee to actual settlers. We have paid interest upon the purchase monies to the emigrating Indians in their new settlements, and have paid them the principal when they have provided a proper and safe investment. At the same time, we have endeavored, through the agency of peace-makers and superintendants, to exercise a guardian care over those who preferred to remain amongst us. No bribe, gratuity, or other improper appliance has been used, or with knowledge permitted by the state to obtain a relinquishment of Indian lands. We take, in all cases, a census of the tribe, and of each family. We regard all their members with perfect equality, and we take care that the monies paid to the nation are fairly and justly distributed among them.

Such is the course which it may be assumed the people of this state would desire to see prevail in regard to the Senecas. In this way we might hope to accomplish, if it be at all practicable, the civilization of a remnant of the Six Nations, once the proprietors of more than half the state. On the other hand, if the humane experiment must fail, we should enjoy, under such circumstances, the consoling reflection, that the effort failed because a higher than any human power had forbidden its success. But, my dear sir, I cannot hesitate to declare my full conviction, derived from history now open to the world, that the treaty which has been made by the United States with the Senecas, was made in open violation of the policy I have described. *I am fully satisfied that the consent of the Senecas was obtained by fraud, corruption, and violence, and that it is therefore false, and ought to be held void.*

The removal of the Indians, under a treaty thus made, would be a great crime against an unoffending and injured people; and I earnestly hope that before any further proceedings are taken to accomplish that object, the whole subject may be reconsidered by the United States.

I am, with sincere respect, your obedient servant,

William H. Seward.

POSTSCRIPT.

Since the foregoing pages were in the press, "The New York Review, No. XVII., July, 1841," has made its appearance. In that number, article 9, page 209, &c., there is an essay, purporting to be a review of our book,

entitled, "The case of the Seneca Indians in the State of New York, illustrated by facts."

This essay is a labored attempt, not to disprove the *truth* of our statements, —not to show that in attributing bribery, fraud, &c. to the agents and principal actors in getting up the late Seneca treaty, we were mistaken,—but to justify their unprincipled conduct in the face of a "Christian community!" "Drunkenness, bribery, rum allowed, personal inducements offered, to persuade individual chiefs to sign" the treaty,—"an amount of bribery going beyond all former precedent," are *unblushingly* admitted! But while the Reviewer admits the facts, he thinks, or at least asserts, that "*the blame* should lie any where but on the pre-emption party!"—any where but on the most guilty! In his opinion, those who drank the "rum," and accepted the "presents," are, in this case, the culprits! His doctrine is, that the "corrupt principles in the receiver," not the "illegal practice in the giver," are to "blame;"—that he who "corrupts by gifts," is to be deemed *innocent*, while he who is corrupted by them, is to be made the "scape-goat *to bear away all the sin!*" See page 218 of the Review.

"By the laws of Athens, the *offerer*, as well as the receiver of a bribe, were prosecuted." In England, the offence of taking a bribe, is punished with fine and imprisonment, and the offence of *offering a bribe, even if it be not accepted*, receives the same punishment. (3 Ins. 147.) In elections, he that *offers a bribe*, forfeits £500. Dr. Rees defines a bribe to be "a reward *given* to pervert the judgment, or corrupt the conduct."

The defence of bribery, fraud, and artifice, set up by the Reviewer, will hardly avail with a "Christian community," who are taught from the highest authority, that it is the "*wicked man* who taketh a gift out of his bosom, to pervert the ways of judgment," and that he alone is justified in the sight of heaven, who "*despiseth the gain of oppression*, and who *shaketh his hands from holding of* BRIBES." It is much to be regretted, that any public writer, especially a Reviewer, whose office ought to be, to explain and *enforce* the principles of morality, should prostitute that office to *pervert* them. In the present instance, however, the friends of justice and humanity have cause to congratulate each other, that *error and crime* have found so weak an advocate. His doctrines are calculated more to disgust than to convince. No mind, not callous to all sense of moral obligation, can entertain them for a moment. They are too monstrous to do *much* harm. Their poison and its antidote go together.

"Nam ego illum periisse duco, cui quidam periit pudor."

"*We* have never *known*," says the Reviewer, "an Indian treaty carried without drunkenness and bribery,—rum allowed, and personal inducements offered, to persuade Indian Chiefs to sign, *even by the Quakers themselves.*" The former part of this sentence may be true, if he speaks of *personal knowledge*; and this may account for the morbid state of his moral feelings, which permit him, publicly, to palliate the most degrading vices, and to hold out the idea, that *the frequency of crime removes the offence!*

In the latter part of the sentence, his insinuation against the Quakers, would have been more easily answered, if he had condescended to inform us *when*

and where they had been guilty of such depravity. He ought to know that with the "Christian community," *insinuation will not pass for proof.* We suppose it is founded on the declaration of Senator Lumpkin, in his speech on the treaty question, when he asserted, that "even under the government of that good man, William Penn," a *statute* was passed, allowing his commissioners "to administer a prudent portion of intoxicating drink to the Indians, with whom they wished to form a treaty."

We have briefly reviewed and refuted this assertion of the Senator, in the work to which this is appended. See pages 56, 57. We will here add, that the statute, so unjustly charged on the government of William Penn, was not made until four or five years after his death. It was passed, not by a Quaker, but "under the government" of SIR WILLIAM KEITH, a member of the church of England; the same individual that Dr. Franklin, in his autobiography, has condemned to lasting and unenviable notoriety, as the gratuitous and cruel betrayer of his juvenile confidence. The Quakers are not accountable for any violation of their principles, during the administration of those governors who succeeded William Penn, none of whom were Quakers. As a society, Friends had no control over the government. Not only the governors, but the proprietors, after his decease, were opposed to the principles of the Quakers. The history of Pennsylvania, and the private letters of the Penn family, amply prove this fact. That cause must be *essentially bad*, that owes its support to *vicious example!*

By what we have said in relation to the Governors of Pennsylvania, after Penn's death, we do not mean to admit that *any abuses*, under the aforesaid "statute," were committed upon the Indians. We read of no case in which chiefs were solicited to drink ardent spirits, to deprive them of their reason; and when unconscious of their own actions, made to sign a treaty.* Such refinement of wickedness belongs to an age that boasts of greater refinement of taste and manners, than prevailed in the days of Governor Keith.

The doctrines taught by the learned reviewer,—his arguments—his style—his phraseology—his peculiar terms, in short, all the characteristics of his essay, as a *literary* production, point out its origin. Its mis-statements are *repetitions*, and its bitterness flows from an old and well-known fountain. No *disinterested*, candid writer could be its author.

Seventh mo. 16th, 1841.

* See the affidavits of Morris Halftown, "Case," p. 207. Little Joe, 210, 211, and especially that of John General, p. 225.

ERRATUM.—An error occurred on page 64, ninth line from the top, in part of the edition of this work—instead of 19,000 acres, it should read 119,000.